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Legislative History – Montana Session Law

Chapter: 651 Session L: 2023

Bill Number: SB 116

Checklist of Bill History

History and Final Status Sheet	☒
Introduced Bill	☒
Fiscal Note	☐
Third Reading Bill	☐
Final Version of Bill	☒

House

Committee: Human Service

Hearing Date(s): 3/16/2023

Committee Report: 3/17/2023

Senate

Committee: Public Health, Welfare, and
Safety

Hearing Date(s): 1/11/2023

Committee Report: 1/13/2023

Conference Committee

Hearing Date(s): 4/25/2023

Conference Committee Report: 4/26/2023

Compiler Notes

Compiled by: SK Marshall

Date: 8/29/2024

Notes: Audio/Video recording are available on the Legislature's website here:

<https://sg001-harmony.sliq.net/00309/Harmony/en>

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
05/22/23	Chapter Number Assigned				
05/19/23	(S) Signed by Governor				
05/11/23	(S) Transmitted to Governor				
05/11/23	(H) Signed by Speaker				
05/10/23	(S) Signed by President				
05/08/23	(C) Printed - Enrolled Version Available				
05/08/23	(S) Returned from Enrolling				
05/05/23	(C) Printed - New Version Available				
05/02/23	(S) Sent to Enrolling				
05/02/23	(S) 3rd Reading Conference Committee Report Adopted		50	0	
05/02/23	(S) 2nd Reading Conference Committee Report Adopted		50	0	
05/02/23	(S) Scheduled for 2nd Reading				
05/01/23	(H) 3rd Reading Conference Committee Report Adopted		81	14	
05/01/23	(H) Scheduled for 3rd Reading				
04/28/23	(H) 2nd Reading Conference Committee Report Adopted		88	12	
04/28/23	(H) Scheduled for 2nd Reading				
04/26/23	(S) Conference Committee Report Received	Conference Committee on SB 116	6	0	
04/25/23	(H) Conference Committee Report Received	Conference Committee on SB 116	6	0	
04/25/23	(S) Hearing	Conference Committee on SB 116			
04/21/23	(H) Conference Committee Appointed				
04/19/23	(S) Conference Committee Appointed				
04/18/23	(S) 2nd Reading House Amendments Not Concurred		50	0	
04/18/23	(S) Scheduled for 2nd Reading				
04/05/23	(H) Returned to Senate with Amendments				
04/05/23	(H) 3rd Reading Concurred		81	16	
04/04/23	(H) 2nd Reading Concurred		85	15	
03/20/23	(C) Printed - New Version Available				
03/20/23	(H) Committee Report--Bill Concurred as Amended	(H) Human Services			
03/17/23	(H) Committee Executive Action--Bill	(H) Human Services	21	0	

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
	Concurred as Amended				
03/16/23	(H) Hearing	(H) Human Services			
03/11/23	(H) First Reading				
03/11/23	(H) Referred to Committee	(H) Human Services			
01/23/23	(S) Transmitted to House				
01/20/23	(S) 3rd Reading Passed		47	2	
01/20/23	(S) Scheduled for 3rd Reading				
01/19/23	(S) 2nd Reading Passed		49	1	
01/16/23	(S) Committee Report--Bill Passed	(S) Public Health, Welfare and Safety			
01/13/23	(S) Committee Executive Action--Bill Passed	(S) Public Health, Welfare and Safety	9	0	
01/11/23	(S) Hearing	(S) Public Health, Welfare and Safety			
01/10/23	(C) Amendments Available				
01/04/23	(S) First Reading				
01/04/23	(S) Referred to Committee	(S) Public Health, Welfare and Safety			
01/04/23	(C) Introduced Bill Text Available Electronically				
01/04/23	(S) Introduced				
01/03/23	(C) Draft Delivered to Requester				
12/28/22	(C) Draft Ready for Delivery				
12/27/22	(C) Executive Director Final Review				
12/27/22	(C) Draft Ready for Delivery				
12/26/22	(C) Draft in Assembly				
12/21/22	(C) Executive Director Review				
12/21/22	(C) Bill Draft Text Available Electronically				
12/21/22	(C) Draft in Final Drafter Review				
12/21/22	(C) Draft in Input/Proofing				
12/16/22	(C) Draft to Drafter - Edit Review				
12/13/22	(C) Draft in Edit				
12/13/22	(C) Draft in Legal Review				
12/07/22	(C) Draft to Requester for Review				
10/03/22	(C) Draft Request Received				



AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, ~~may~~ must, upon request, be disclosed to the following persons or entities in this state and any other state or country:

~~(a)~~(a) a department, agency, or organization, including a federal agency, military enclave, or Indian

tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

~~(b)~~(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

~~(c)~~(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

~~(d)~~(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

~~(e)~~(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

~~(f)~~(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

~~(g)~~(g) approved foster and adoptive parents who are or may be providing care for a child;

~~(h)~~(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

~~(i)~~(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

~~(j)~~(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)~~(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)~~(l) the coroner or medical examiner when determining the cause of death of a child;

~~(m)~~(m) a child fatality review team recognized by the department;

~~(n)~~(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)~~(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(o)~~ (3)(o) must be made in writing. Disclosure under this subsection ~~(3)(o)~~ (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)~~(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)~~(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)~~(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)~~(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)~~(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

~~(u)~~(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

~~(v)~~(v) a school employee participating in an interview of a child by a child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

~~(w)~~(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

~~(x)~~(x) members of a local interagency staffing group provided for in 52-2-203;

~~(y)~~(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

~~(z)(2)~~ a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records. The orientation must include a checklist of documents that are regularly included in records, including but not limited to the following:

(I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and evidence;

(II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

(III) notes from family engagement meetings and foster care review meetings; and

(IV) notes included in electronic case records or in case files maintained in local offices regarding staffing and interactions with parents or legal guardians, providers, or attorneys.

(b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect, the department shall make available to the member all records concerning the child who is the subject of the written inquiry.

(ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,

~~recorded,~~ photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.

(iii) A member may take notes to discuss the records with a parent or legal guardian about whom a report of alleged child abuse or neglect is made.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

- (i) the attorney general;
- (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;
- (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or
- (iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

- (i) the death of the child as a result of child abuse or neglect;
- (ii) a sexual offense, as defined in 46-23-502, against the child;
- (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to

share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a), (4)(b)(iii), and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost."

Section 2. Section 41-3-1214, MCA, is amended to read:

"41-3-1214. Legislator access to ombudsman records. (1) Records of ombudsman investigations, including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

(a) the legislator receives a written request from a person who has requested assistance from the ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(b) the legislator submits a written request to the ombudsman asking to review the records relating to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the ombudsman in locating the records.

(c) before reviewing the records, the legislator:

(i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties

for unauthorized release of the information; and

(ii) receives from the ombudsman an orientation of the content and structure of the records.

(2) (a) ~~Records~~ Except as provided in subsection (2)(b), records disclosed pursuant to this section are confidential. Records must be made available for the member to view but may not be copied, ~~recorded~~, photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession. The records may be viewed at any office maintained by the office of the child and family ombudsman.

(b) A member may take notes in order to discuss the records with the party who submitted the written inquiry to the member."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 116, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 116
INTRODUCED BY D. LENZ

AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST; REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) (a) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined by a court to be

1 detrimental to the child or harmful to another person who is a subject of information contained in the records,
 2 ~~may~~must be disclosed to the following persons or entities in this state and any other state or country within 10
 3 days of receiving the request for records:

4 ~~(a)~~(i) a department, agency, or organization, including a federal agency, military enclave, or Indian
 5 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
 6 and that otherwise meets the disclosure criteria contained in this section;

7 ~~(b)~~(ii) a licensed youth care facility or a licensed child-placing agency that is providing services to the
 8 family or child who is the subject of a report in the records or to a person authorized by the department to
 9 receive relevant information for the purpose of determining the best interests of a child with respect to an
 10 adoptive placement;

11 ~~(c)~~(iii) a health or mental health professional who is treating the family or child who is the subject of a
 12 report in the records;

13 ~~(d)~~(iv) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in
 14 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in
 15 the records or other person responsible for the child's welfare, without disclosure of the identity of any person
 16 who reported or provided information on the alleged child abuse or neglect incident contained in the records;

17 ~~(e)~~(v) a child named in the records who was allegedly abused or neglected or the child's legal
 18 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
 19 appointed by the court to represent a child in a pending case;

20 ~~(f)~~(vi) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

21 ~~(g)~~(vii) approved foster and adoptive parents who are or may be providing care for a child;

22 ~~(h)~~(viii) a person about whom a report has been made and that person's attorney, with respect to the
 23 relevant records pertaining to that person only and without disclosing the identity of the reporter or any other
 24 person whose safety may be endangered;

25 ~~(i)~~(ix) an agency, including a probation or parole agency, that is legally responsible for the
 26 supervision of an alleged perpetrator of child abuse or neglect;

27 ~~(j)~~(x) a person, agency, or organization that is engaged in a bona fide research or evaluation project
 28 and that is authorized by the department to conduct the research or evaluation;

~~(k)~~(xi) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)~~(xii) the coroner or medical examiner when determining the cause of death of a child;

~~(m)~~(xiii) a child fatality review team recognized by the department;

~~(n)~~(xiv) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)~~(xv) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)~~(o)~~ (a)(xv) must be made in writing. Disclosure under this subsection (3)~~(o)~~ (a)(xv) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)~~(xvi) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)~~(xvii) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)~~(xviii) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)~~(xix) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)~~(xx) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

~~(u)~~(xxi) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

~~(v)~~(xxii) a school employee participating in an interview of a child by a child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

1 ~~(w)~~(xxiii) a member of a county or regional interdisciplinary child information and school safety
 2 team formed under the provisions of 52-2-211;
 3 ~~(x)~~(xxiv) members of a local interagency staffing group provided for in 52-2-203;
 4 ~~(y)~~(xxv) a member of a youth placement committee formed under the provisions of 41-5-121; or
 5 ~~(z)~~(xxvi) a principal of a school or other employee of the school district authorized by the
 6 trustees of the district to receive the information with respect to a student of the district who is a client of the
 7 department.

8 (b) A person who purposely or negligently fails to provide records requested within the timeframe
 9 required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.

10 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
 11 States congress or a member of the Montana legislature if all of the following requirements are met:

12 (i) the member receives a written inquiry regarding a child and whether the laws of the United
 13 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
 14 the laws need to be changed to enhance protections for children;

15 (ii) the member submits a written request to the department requesting to review the records
 16 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
 17 child whose records are to be reviewed, and any other information that will assist the department in locating the
 18 records.

19 (iii) before reviewing the records, the member:

20 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
 21 for unauthorized release of the information; and

22 (B) receives from the department an orientation of the content and structure of the records. The
 23 orientation must include a checklist of documents that are regularly included in records, including but not limited
 24 to the following:

25 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
 26 evidence;

27 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

28 (III) notes from family engagement meetings and foster care review meetings; and

1 (IV) notes included in electronic case records or in case files maintained in local offices regarding
2 staffing and interactions with parents or legal guardians, providers, or attorneys.

3 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
4 the department shall make available to the member all records concerning the child who is the subject of the
5 written inquiry.

6 (ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
7 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
8 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
9 possession. The member must be allowed to view the records in the local office where the case is or was
10 active.

11 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
12 report of alleged child abuse or neglect is made.

13 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
14 the written request to review records was received by the department.

15 (5) (a) The records described in subsection (3) must be promptly released to any of the following
16 individuals upon a written request by the individual to the department or the department's designee:

17 (i) the attorney general;

18 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
19 occurred;

20 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
21 occurred; or

22 (iv) the office of the child and family ombudsman.

23 (b) The records described in subsection (3) must be promptly disclosed by the department to an
24 appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information
25 and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating
26 that any of the following has occurred:

27 (i) the death of the child as a result of child abuse or neglect;

28 (ii) a sexual offense, as defined in 46-23-502, against the child;

- 1 (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;
- 2 or
- 3 (iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances
- 4 constituting the criminal manufacture or distribution of dangerous drugs.
- 5 (c) (i) The department shall promptly disclose the results of an investigation to an individual
- 6 described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety
- 7 team established pursuant to 52-2-211 upon the determination that:
- 8 (A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or
- 9 Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or
- 10 (B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession
- 11 of a Schedule I or Schedule II drug that is prohibited by state law.
- 12 (ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted
- 13 to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have
- 14 contact with drug paraphernalia as defined in 45-10-101.
- 15 (d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be
- 16 released within 5 business days to the county attorney of the county in which the acts that are the subject of a
- 17 report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual
- 18 exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a)
- 19 and to a county or regional interdisciplinary child information and school safety team established pursuant to
- 20 52-2-211.
- 21 (ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides
- 22 confidential services to victims of sexual assault shall report to the department as provided in this part without
- 23 disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.
- 24 (iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of
- 25 sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual
- 26 exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a
- 27 request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as
- 28 described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

1 (6) A school or school district may disclose, without consent, personally identifiable information
2 from the education records of a pupil to the department, the court, a review board, and the child's assigned
3 attorney, guardian ad litem, or special advocate.

4 (7) Information that identifies a person as a participant in or recipient of substance abuse treatment
5 services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the
6 consent provisions of the law.

7 (8) The confidentiality provisions of this section must be construed to allow a court of this state to
8 share information with other courts of this state or of another state when necessary to expedite the interstate
9 placement of children.

10 (9) A person who is authorized to receive records under this section shall maintain the
11 confidentiality of the records and may not disclose information in the records to anyone other than the persons
12 described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel
13 a family member to keep the proceedings confidential.

14 (10) A news organization or its employee, including a freelance writer or reporter, is not liable for
15 reporting facts or statements made by an immediate family member under subsection (9) if the news
16 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the
17 proceeding.

18 (11) This section is not intended to affect the confidentiality of criminal court records, records of law
19 enforcement agencies, or medical records covered by state or federal disclosure limitations.

20 (12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to
21 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
22 guardian's attorney must be provided without cost."

23

24 **Section 2.** Section 41-3-1214, MCA, is amended to read:

25 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
26 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

27 (a) the legislator receives a written request from a person who has requested assistance from the
28 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether

1 the laws need to be changed to enhance protections for children;

2 (b) the legislator submits a written request to the ombudsman asking to review the records relating
3 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
4 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
5 records.

6 (c) before reviewing the records, the legislator:

7 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
8 for unauthorized release of the information; and

9 (ii) receives from the ombudsman an orientation of the content and structure of the records.

10 (2) (a) Records-Except as provided in subsection (2)(b), records disclosed pursuant to this section
11 are confidential. Records must be made available for the member to view but may not be copied, ~~recorded,~~
12 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
13 The records may be viewed at any office maintained by the office of the child and family ombudsman.

14 (b) A member may:

15 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
16 member; and

17 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
18 defined in 45-2-101."

19

20 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

21

- END -

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined by a court to be

detrimental to the child or harmful to another person who is a subject of information contained in the records,
~~may must~~ MAY be disclosed to the following persons or entities in this state and any other state or country ~~within~~
10 days of receiving the request for records:

~~(a)(i)(A)~~ (A) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

~~(b)(ii)(B)~~ (B) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

~~(c)(iii)(C)~~ (C) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

~~(d)(iv)(D)~~ (D) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

~~(e)(v)(E)~~ (E) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

~~(f)(vi)(F)~~ (F) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

~~(g)(vii)(G)~~ (G) approved foster and adoptive parents who are or may be providing care for a child;

~~(h)(viii)(H)~~ (H) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

~~(i)(ix)(I)~~ (I) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(J)~~ (J) a person, agency, or organization that is engaged in a bona fide research or evaluation project

and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(K)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(L)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(M)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(N)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(O)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(e) (a)(xv) (3)(O)~~ must be made in writing. Disclosure under this subsection ~~(3)(e) (a)(xv) (3)(O)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(P)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(Q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(R)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(S)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(T)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

~~(u)(xxi)(U)~~ a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

~~(v)(xxii)(V)~~ a school employee participating in an interview of a child by a child protection

1 specialist, county attorney, or peace officer, as provided in 41-3-202;
2 ~~(w)(xxiii)(w)~~ a member of a county or regional interdisciplinary child information and school safety
3 team formed under the provisions of 52-2-211;
4 ~~(x)(xxiv)(x)~~ members of a local interagency staffing group provided for in 52-2-203;
5 ~~(y)(xxv)(y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or
6 ~~(z)(xxvi)(z)~~ a principal of a school or other employee of the school district authorized by the
7 trustees of the district to receive the information with respect to a student of the district who is a client of the
8 department.

9 ~~(b) A person who purposely or negligently fails to provide records requested within the timeframe~~
10 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

11 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
12 States congress or a member of the Montana legislature if all of the following requirements are met:

13 (i) the member receives a written inquiry regarding a child and whether the laws of the United
14 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
15 the laws need to be changed to enhance protections for children;

16 (ii) the member submits a written request to the department requesting to review the records
17 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
18 child whose records are to be reviewed, and any other information that will assist the department in locating the
19 records.

20 (iii) before reviewing the records, the member:

21 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
22 for unauthorized release of the information; and

23 (B) receives from the department an orientation of the content and structure of the records. The
24 orientation must include a checklist of documents that are regularly included in records, including but not limited
25 to the following:

26 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
27 evidence;

28 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

(III) notes from family engagement meetings and foster care review meetings; and

(IV) notes included in electronic case records or in case files maintained in local offices regarding staffing and interactions with parents or legal guardians, providers, or attorneys.

(b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect, the department shall make available to the member all records concerning the child who is the subject of the written inquiry.

(ii) Records ~~Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.~~

(iii) A member may take notes to discuss the records with a parent or legal guardian about whom a report of alleged child abuse or neglect is made.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

- 1 (ii) a sexual offense, as defined in 46-23-502, against the child;
- 2 (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;
- 3 or
- 4 (iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances
- 5 constituting the criminal manufacture or distribution of dangerous drugs.
- 6 (c) (i) The department shall promptly disclose the results of an investigation to an individual
- 7 described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety
- 8 team established pursuant to 52-2-211 upon the determination that:
- 9 (A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or
- 10 Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or
- 11 (B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession
- 12 of a Schedule I or Schedule II drug that is prohibited by state law.
- 13 (ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted
- 14 to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have
- 15 contact with drug paraphernalia as defined in 45-10-101.
- 16 (d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be
- 17 released within 5 business days to the county attorney of the county in which the acts that are the subject of a
- 18 report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual
- 19 exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a)
- 20 and to a county or regional interdisciplinary child information and school safety team established pursuant to
- 21 52-2-211.
- 22 (ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides
- 23 confidential services to victims of sexual assault shall report to the department as provided in this part without
- 24 disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.
- 25 (iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of
- 26 sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual
- 27 exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a
- 28 request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as

1 described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

2 (6) A school or school district may disclose, without consent, personally identifiable information
3 from the education records of a pupil to the department, the court, a review board, and the child's assigned
4 attorney, guardian ad litem, or special advocate.

5 (7) Information that identifies a person as a participant in or recipient of substance abuse treatment
6 services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the
7 consent provisions of the law.

8 (8) The confidentiality provisions of this section must be construed to allow a court of this state to
9 share information with other courts of this state or of another state when necessary to expedite the interstate
10 placement of children.

11 (9) A person who is authorized to receive records under this section shall maintain the
12 confidentiality of the records and may not disclose information in the records to anyone other than the persons
13 described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel
14 a family member to keep the proceedings confidential.

15 (10) A news organization or its employee, including a freelance writer or reporter, is not liable for
16 reporting facts or statements made by an immediate family member under subsection (9) if the news
17 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the
18 proceeding.

19 (11) This section is not intended to affect the confidentiality of criminal court records, records of law
20 enforcement agencies, or medical records covered by state or federal disclosure limitations.

21 (12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to
22 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
23 guardian's attorney must be provided without cost."

24

25 **Section 2.** Section 41-3-1214, MCA, is amended to read:

26 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
27 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

28 (a) the legislator receives a written request from a person who has requested assistance from the

1 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
2 the laws need to be changed to enhance protections for children;

3 (b) the legislator submits a written request to the ombudsman asking to review the records relating
4 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
5 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
6 records.

7 (c) before reviewing the records, the legislator:

8 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
9 for unauthorized release of the information; and

10 (ii) receives from the ombudsman an orientation of the content and structure of the records.

11 (2) ~~(a) Records~~ Except as provided in subsection (2)(b), records disclosed pursuant to this section
12 are confidential. Records must be made available for the member to view but may not be copied, ~~recorded,~~
13 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
14 The records may be viewed at any office maintained by the office of the child and family ombudsman.

15 ~~(b) A member may:~~

16 ~~(i) take notes in order to discuss the records with the party who submitted the written inquiry to the~~
17 ~~member; and~~

18 ~~(ii) report to the appropriate authorities if the member suspects misconduct by a public servant as~~
19 ~~defined in 45-2-101."~~

20

21 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

22

- END -

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined by a court to be

detrimental to the child or harmful to another person who is a subject of information contained in the records,
~~may must~~ MAY MUST, UPON REQUEST, be disclosed to the following persons or entities in this state and any other
state or country within 10 days of receiving the request for records:

~~(a)(i)(A)~~ (A) a department, agency, or organization, including a federal agency, military enclave, or Indian
tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
and that otherwise meets the disclosure criteria contained in this section;

~~(b)(ii)(B)~~ (B) a licensed youth care facility or a licensed child-placing agency that is providing services to the
family or child who is the subject of a report in the records or to a person authorized by the department to
receive relevant information for the purpose of determining the best interests of a child with respect to an
adoptive placement;

~~(c)(iii)(C)~~ (C) a health or mental health professional who is treating the family or child who is the
subject of a report in the records;

~~(d)(iv)(D)~~ (D) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
any person who reported or provided information on the alleged child abuse or neglect incident contained in the
records;

~~(e)(v)(E)~~ (E) a child named in the records who was allegedly abused or neglected or the child's legal
guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
appointed by the court to represent a child in a pending case;

~~(f)(vi)(F)~~ (F) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

~~(g)(vii)(G)~~ (G) approved foster and adoptive parents who are or may be providing care for a child;

~~(h)(viii)(H)~~ (H) a person about whom a report has been made and that person's attorney, with respect
to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
other person whose safety may be endangered;

~~(i)(ix)(I)~~ (I) an agency, including a probation or parole agency, that is legally responsible for the
supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(J)~~ (J) a person, agency, or organization that is engaged in a bona fide research or evaluation project

and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(K)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(L)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(M)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(N)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(O)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(e) (a)(xv) (3)(O)~~ must be made in writing. Disclosure under this subsection ~~(3)(e) (a)(xv) (3)(O)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(P)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(Q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(R)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(S)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(T)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

~~(u)(xxi)(U)~~ a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

~~(v)(xxii)(V)~~ a school employee participating in an interview of a child by a child protection

1 specialist, county attorney, or peace officer, as provided in 41-3-202;
2 ~~(w)(xxiii)(w)~~ a member of a county or regional interdisciplinary child information and school safety
3 team formed under the provisions of 52-2-211;
4 ~~(x)(xxiv)(x)~~ members of a local interagency staffing group provided for in 52-2-203;
5 ~~(y)(xxv)(y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or
6 ~~(z)(xxvi)(z)~~ a principal of a school or other employee of the school district authorized by the
7 trustees of the district to receive the information with respect to a student of the district who is a client of the
8 department.

9 ~~(b) A person who purposely or negligently fails to provide records requested within the timeframe~~
10 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

11 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
12 States congress or a member of the Montana legislature if all of the following requirements are met:

13 (i) the member receives a written inquiry regarding a child and whether the laws of the United
14 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
15 the laws need to be changed to enhance protections for children;

16 (ii) the member submits a written request to the department requesting to review the records
17 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
18 child whose records are to be reviewed, and any other information that will assist the department in locating the
19 records.

20 (iii) before reviewing the records, the member:

21 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
22 for unauthorized release of the information; and

23 (B) receives from the department an orientation of the content and structure of the records. The
24 orientation must include a checklist of documents that are regularly included in records, including but not limited
25 to the following:

26 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
27 evidence;

28 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

1 (III) notes from family engagement meetings and foster care review meetings; and
2 (IV) notes included in electronic case records or in case files maintained in local offices regarding
3 staffing and interactions with parents or legal guardians, providers, or attorneys.

4 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
5 the department shall make available to the member all records concerning the child who is the subject of the
6 written inquiry.

7 (ii) ~~Records~~ Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
8 subsubsection (4)(a) are confidential, ~~must be made available for the member to view but~~ may not be copied,
9 ~~recorded,~~ photographed, or otherwise replicated by the member, and must remain solely in the department's
10 possession. The member must be allowed to view the records in the local office where the case is or was
11 active.

12 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
13 report of alleged child abuse or neglect is made.

14 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
15 the written request to review records was received by the department.

16 (5) (a) The records described in subsection (3) must be promptly released to any of the following
17 individuals upon a written request by the individual to the department or the department's designee:

- 18 (i) the attorney general;
- 19 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
20 occurred;
- 21 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
22 occurred; or
- 23 (iv) the office of the child and family ombudsman.

24 (b) The records described in subsection (3) must be promptly disclosed by the department to an
25 appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information
26 and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating
27 that any of the following has occurred:

- 28 (i) the death of the child as a result of child abuse or neglect;

- 1 (ii) a sexual offense, as defined in 46-23-502, against the child;
- 2 (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;
- 3 or
- 4 (iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances
- 5 constituting the criminal manufacture or distribution of dangerous drugs.
- 6 (c) (i) The department shall promptly disclose the results of an investigation to an individual
- 7 described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety
- 8 team established pursuant to 52-2-211 upon the determination that:
- 9 (A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or
- 10 Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or
- 11 (B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession
- 12 of a Schedule I or Schedule II drug that is prohibited by state law.
- 13 (ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted
- 14 to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have
- 15 contact with drug paraphernalia as defined in 45-10-101.
- 16 (d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be
- 17 released within 5 business days to the county attorney of the county in which the acts that are the subject of a
- 18 report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual
- 19 exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a)
- 20 and to a county or regional interdisciplinary child information and school safety team established pursuant to
- 21 52-2-211.
- 22 (ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides
- 23 confidential services to victims of sexual assault shall report to the department as provided in this part without
- 24 disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.
- 25 (iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of
- 26 sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual
- 27 exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a
- 28 request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as

1 described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

2 (6) A school or school district may disclose, without consent, personally identifiable information
3 from the education records of a pupil to the department, the court, a review board, and the child's assigned
4 attorney, guardian ad litem, or special advocate.

5 (7) Information that identifies a person as a participant in or recipient of substance abuse treatment
6 services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the
7 consent provisions of the law.

8 (8) The confidentiality provisions of this section must be construed to allow a court of this state to
9 share information with other courts of this state or of another state when necessary to expedite the interstate
10 placement of children.

11 (9) A person who is authorized to receive records under this section shall maintain the
12 confidentiality of the records and may not disclose information in the records to anyone other than the persons
13 described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel
14 a family member to keep the proceedings confidential.

15 (10) A news organization or its employee, including a freelance writer or reporter, is not liable for
16 reporting facts or statements made by an immediate family member under subsection (9) if the news
17 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the
18 proceeding.

19 (11) This section is not intended to affect the confidentiality of criminal court records, records of law
20 enforcement agencies, or medical records covered by state or federal disclosure limitations.

21 (12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to
22 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
23 guardian's attorney must be provided without cost."

24

25 **Section 2.** Section 41-3-1214, MCA, is amended to read:

26 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
27 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

28 (a) the legislator receives a written request from a person who has requested assistance from the

(b) the legislator submits a written request to the ombudsman asking to review the records relating to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the ombudsman in locating the records.

8 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
9 for unauthorized release of the information; and

11 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section

are confidential. Records must be made available for the member to view but may not be copied, ~~recorded,~~
photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
The records may be viewed at any office maintained by the office of the child and family ombudsman.

16 ~~(i) — take notes in order to discuss the records with the party who submitted the written inquiry to the~~
17 ~~member; and~~

~~(ii) report to the appropriate authorities if the member suspects misconduct by a public servant as defined in 45-2-101."~~

20

21 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

22 - END -



AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, ~~may~~ must, upon request, be disclosed to the following persons or entities in this state and any other state or country:

~~(a)~~(a) a department, agency, or organization, including a federal agency, military enclave, or Indian

tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

~~(b)~~(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

~~(c)~~(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

~~(d)~~(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

~~(e)~~(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

~~(f)~~(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

~~(g)~~(g) approved foster and adoptive parents who are or may be providing care for a child;

~~(h)~~(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

~~(i)~~(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

~~(j)~~(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)~~(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)~~(l) the coroner or medical examiner when determining the cause of death of a child;

~~(m)~~(m) a child fatality review team recognized by the department;

~~(n)~~(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)~~(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(o)~~ (3)(o) must be made in writing. Disclosure under this subsection ~~(3)(o)~~ (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)~~(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)~~(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)~~(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)~~(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)~~(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

~~(u)~~(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

~~(v)~~(v) a school employee participating in an interview of a child by a child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

~~(w)~~(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

~~(x)~~(x) members of a local interagency staffing group provided for in 52-2-203;

~~(y)~~(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

~~(z)(2)~~ a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records. The orientation must include a checklist of documents that are regularly included in records, including but not limited to the following:

(I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and evidence;

(II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

(III) notes from family engagement meetings and foster care review meetings; and

(IV) notes included in electronic case records or in case files maintained in local offices regarding staffing and interactions with parents or legal guardians, providers, or attorneys.

(b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect, the department shall make available to the member all records concerning the child who is the subject of the written inquiry.

(ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,

~~recorded,~~ photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.

(iii) A member may take notes to discuss the records with a parent or legal guardian about whom a report of alleged child abuse or neglect is made.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

- (i) the attorney general;
- (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;
- (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or
- (iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

- (i) the death of the child as a result of child abuse or neglect;
- (ii) a sexual offense, as defined in 46-23-502, against the child;
- (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to

share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a), (4)(b)(iii), and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost."

Section 2. Section 41-3-1214, MCA, is amended to read:

"41-3-1214. Legislator access to ombudsman records. (1) Records of ombudsman investigations, including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

(a) the legislator receives a written request from a person who has requested assistance from the ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(b) the legislator submits a written request to the ombudsman asking to review the records relating to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the ombudsman in locating the records.

(c) before reviewing the records, the legislator:

(i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties

for unauthorized release of the information; and

(ii) receives from the ombudsman an orientation of the content and structure of the records.

(2) (a) ~~Records~~ Except as provided in subsection (2)(b), records disclosed pursuant to this section are confidential. Records must be made available for the member to view but may not be copied, ~~recorded~~, photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession. The records may be viewed at any office maintained by the office of the child and family ombudsman.

(b) A member may take notes in order to discuss the records with the party who submitted the written inquiry to the member."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 116, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 116
INTRODUCED BY D. LENZ

AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski,

SB0116.001.001

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski,

SB0116.001.001

1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may~~ must may be disclosed to the following persons or entities in this state and any other state or country
4 within 10 days of receiving the request for records:

5 ~~(a)(i)(a)~~ a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 ~~(b)(ii)(b)~~ a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 ~~(c)(iii)(c)~~ a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 ~~(d)(iv)(d)~~ a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 ~~(e)(v)(e)~~ a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 ~~(f)(vi)(f)~~ the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 ~~(g)(vii)(g)~~ approved foster and adoptive parents who are or may be providing care for a child;

24 ~~(h)(viii)(h)~~ a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 ~~(i)(ix)(i)~~ an agency, including a probation or parole agency, that is legally responsible for the

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski,

SB0116.001.001

supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(i)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(k)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(l)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(m)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(n)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(o)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(e)(a)(xv)(3)(o)~~ must be made in writing. Disclosure under this subsection ~~(3)(e)(a)(xv)(3)(o)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(p)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(r)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(s)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(t)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

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(u)(xxi)(u) a foster care review committee established under 41-3-115 or, when applicable, a
citizen review board established under Title 41, chapter 3, part 10;
(v)(xxii)(v) a school employee participating in an interview of a child by a child protection
specialist, county attorney, or peace officer, as provided in 41-3-202;
(w)(xxiii)(w) a member of a county or regional interdisciplinary child information and school safety
team formed under the provisions of 52-2-211;
(x)(xxiv)(x) members of a local interagency staffing group provided for in 52-2-203;
(y)(xxv)(y) a member of a youth placement committee formed under the provisions of 41-5-121; or
(z)(xxvi)(z) a principal of a school or other employee of the school district authorized by the
trustees of the district to receive the information with respect to a student of the district who is a client of the
department.

~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe
required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

(4) (a) The records described in subsection (3) must be disclosed to a member of the United
States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United
States or the state of Montana that protect children from abuse or neglect are being complied with or whether
the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records
relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
child whose records are to be reviewed, and any other information that will assist the department in locating the
records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records. The
orientation must include a checklist of documents that are regularly included in records, including but not limited

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1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
13 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

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(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

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confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a), ~~(4)(b)(iii)~~, and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

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1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential; Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

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2 - END -



**Legislative
Services
Division**

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be

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1 detrimental to the child or harmful to another person who is a subject of information contained in the records,
2 ~~may~~ must ~~may~~ be disclosed to the following persons or entities in this state and any other state or country
3 within 10 days of receiving the request for records:

4 ~~(a)~~ (i)(a) a department, agency, or organization, including a federal agency, military enclave, or Indian
5 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
6 and that otherwise meets the disclosure criteria contained in this section;

7 ~~(b)~~ (ii)(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the
8 family or child who is the subject of a report in the records or to a person authorized by the department to
9 receive relevant information for the purpose of determining the best interests of a child with respect to an
10 adoptive placement;

11 ~~(c)~~ (iii)(c) a health or mental health professional who is treating the family or child who is the
12 subject of a report in the records;

13 ~~(d)~~ (iv)(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
14 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
15 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
16 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
17 records;

18 ~~(e)~~ (v)(e) a child named in the records who was allegedly abused or neglected or the child's legal
19 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
20 appointed by the court to represent a child in a pending case;

21 ~~(f)~~ (vi)(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

22 ~~(g)~~ (vii)(g) approved foster and adoptive parents who are or may be providing care for a child;

23 ~~(h)~~ (viii)(h) a person about whom a report has been made and that person's attorney, with respect
24 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
25 other person whose safety may be endangered;

26 ~~(i)~~ (ix)(i) an agency, including a probation or parole agency, that is legally responsible for the
27 supervision of an alleged perpetrator of child abuse or neglect;

28 ~~(j)~~ (x)(i) a person, agency, or organization that is engaged in a bona fide research or evaluation project

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- 1 and that is authorized by the department to conduct the research or evaluation;
- 2 ~~(k)(xi)(k)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or
- 3 of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a
- 4 treatment plan, and monitoring the plan;
- 5 ~~(l)(xii)(l)~~ the coroner or medical examiner when determining the cause of death of a child;
- 6 ~~(m)(xiii)(m)~~ a child fatality review team recognized by the department;
- 7 ~~(n)(xiv)(n)~~ a department or agency investigating an applicant for a license or registration that is
- 8 required to operate a youth care facility, day-care facility, or child-placing agency;
- 9 ~~(o)(xv)(o)~~ a person or entity who is carrying out background, employment-related, or volunteer-
- 10 related screening of current or prospective employees or volunteers who have or may have unsupervised
- 11 contact with children through employment or volunteer activities. A request for information under this subsection
- 12 ~~(3)(e)(a)(xv)(3)(o)~~ must be made in writing. Disclosure under this subsection ~~(3)(e)(a)(xv)(3)(o)~~ is limited to
- 13 information that indicates a risk to children posed by the person about whom the information is sought, as
- 14 determined by the department.
- 15 ~~(p)(xvi)(p)~~ the news media, if disclosure is limited to confirmation of factual information regarding
- 16 how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent
- 17 or guardian, as determined by the department;
- 18 ~~(q)(xvii)(q)~~ an employee of the department or other state agency if disclosure of the records is
- 19 necessary for administration of programs designed to benefit the child;
- 20 ~~(r)(xviii)(r)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian
- 21 child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;
- 22 ~~(s)(xix)(s)~~ a juvenile probation officer who is working in an official capacity with the child who is
- 23 the subject of a report in the records;
- 24 ~~(t)(xx)(t)~~ an attorney who is hired by or represents the department if disclosure is necessary for
- 25 the investigation, defense, or prosecution of a case involving child abuse or neglect;
- 26 ~~(u)(xxi)(u)~~ a foster care review committee established under 41-3-115 or, when applicable, a
- 27 citizen review board established under Title 41, chapter 3, part 10;
- 28 ~~(v)(xxii)(v)~~ a school employee participating in an interview of a child by a child protection

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1 specialist, county attorney, or peace officer, as provided in 41-3-202;

2 ~~(w)(xxiii)(w)~~ a member of a county or regional interdisciplinary child information and school safety
3 team formed under the provisions of 52-2-211;

4 ~~(x)(xxiv)(x)~~ members of a local interagency staffing group provided for in 52-2-203;

5 ~~(y)(xxv)(y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or

6 ~~(z)(xxvi)(z)~~ a principal of a school or other employee of the school district authorized by the

7 trustees of the district to receive the information with respect to a student of the district who is a client of the
8 department.

9 ~~(b) A person who purposely or negligently fails to provide records requested within the timeframe~~
10 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

11 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
12 States congress or a member of the Montana legislature if all of the following requirements are met:

13 (i) the member receives a written inquiry regarding a child and whether the laws of the United
14 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
15 the laws need to be changed to enhance protections for children;

16 (ii) the member submits a written request to the department requesting to review the records
17 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
18 child whose records are to be reviewed, and any other information that will assist the department in locating the
19 records.

20 (iii) before reviewing the records, the member:

21 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
22 for unauthorized release of the information; and

23 (B) receives from the department an orientation of the content and structure of the records. The
24 orientation must include a checklist of documents that are regularly included in records, including but not limited
25 to the following:

26 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
27 evidence;

28 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

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(III) notes from family engagement meetings and foster care review meetings; and

(IV) notes included in electronic case records or in case files maintained in local offices regarding staffing and interactions with parents or legal guardians, providers, or attorneys.

(b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect, the department shall make available to the member all records concerning the child who is the subject of the written inquiry.

(ii) Records ~~Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.~~

(iii) A member may take notes to discuss the records with a parent or legal guardian about whom a report of alleged child abuse or neglect is made.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

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- 1 (ii) a sexual offense, as defined in 46-23-502, against the child;
- 2 (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;
- 3 or
- 4 (iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances
- 5 constituting the criminal manufacture or distribution of dangerous drugs.
- 6 (c) (i) The department shall promptly disclose the results of an investigation to an individual
- 7 described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety
- 8 team established pursuant to 52-2-211 upon the determination that:
- 9 (A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or
- 10 Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or
- 11 (B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession
- 12 of a Schedule I or Schedule II drug that is prohibited by state law.
- 13 (ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted
- 14 to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have
- 15 contact with drug paraphernalia as defined in 45-10-101.
- 16 (d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be
- 17 released within 5 business days to the county attorney of the county in which the acts that are the subject of a
- 18 report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual
- 19 exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a)
- 20 and to a county or regional interdisciplinary child information and school safety team established pursuant to
- 21 52-2-211.
- 22 (ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides
- 23 confidential services to victims of sexual assault shall report to the department as provided in this part without
- 24 disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.
- 25 (iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of
- 26 sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual
- 27 exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a
- 28 request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as

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1 described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

2 (6) A school or school district may disclose, without consent, personally identifiable information
3 from the education records of a pupil to the department, the court, a review board, and the child's assigned
4 attorney, guardian ad litem, or special advocate.

5 (7) Information that identifies a person as a participant in or recipient of substance abuse treatment
6 services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the
7 consent provisions of the law.

8 (8) The confidentiality provisions of this section must be construed to allow a court of this state to
9 share information with other courts of this state or of another state when necessary to expedite the interstate
10 placement of children.

11 (9) A person who is authorized to receive records under this section shall maintain the
12 confidentiality of the records and may not disclose information in the records to anyone other than the persons
13 described in subsections (3)(a)(~~ii~~), (4)(b)(iii), and (5). However, this subsection may not be construed to compel
14 a family member to keep the proceedings confidential.

15 (10) A news organization or its employee, including a freelance writer or reporter, is not liable for
16 reporting facts or statements made by an immediate family member under subsection (9) if the news
17 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the
18 proceeding.

19 (11) This section is not intended to affect the confidentiality of criminal court records, records of law
20 enforcement agencies, or medical records covered by state or federal disclosure limitations.

21 (12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to
22 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
23 guardian's attorney must be provided without cost."

24

25 **Section 2.** Section 41-3-1214, MCA, is amended to read:

26 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
27 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

28 (a) the legislator receives a written request from a person who has requested assistance from the

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1 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
2 the laws need to be changed to enhance protections for children;

3 (b) the legislator submits a written request to the ombudsman asking to review the records relating
4 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
5 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
6 records.

7 (c) before reviewing the records, the legislator:

8 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
9 for unauthorized release of the information; and

10 (ii) receives from the ombudsman an orientation of the content and structure of the records.

11 (2) (a) Records-Except as provided in subsection (2)(b), records disclosed pursuant to this section
12 are confidential.; Records must be made available for the member to view but may not be copied, recorded,
13 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
14 The records may be viewed at any office maintained by the office of the child and family ombudsman.

15 (b) A member may:

16 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
17 member; and

18 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
19 defined in 45-2-101."

20

21 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

22

- END -

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski,

SB0116.001.001

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

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1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may~~ must ~~may~~ be disclosed to the following persons or entities in this state and any other state or country
4 within 10 days of receiving the request for records:

5 ~~(a)(i)(a)~~ a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 ~~(b)(ii)(b)~~ a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 ~~(c)(iii)(c)~~ a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 ~~(d)(iv)(d)~~ a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 ~~(e)(v)(e)~~ a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 ~~(f)(vi)(f)~~ the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 ~~(g)(vii)(g)~~ approved foster and adoptive parents who are or may be providing care for a child;

24 ~~(h)(viii)(h)~~ a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 ~~(i)(ix)(i)~~ an agency, including a probation or parole agency, that is legally responsible for the

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supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(i)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(k)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(l)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(m)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(n)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(o)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(e)(a)(xv)(3)(o)~~ must be made in writing. Disclosure under this subsection ~~(3)(e)(a)(xv)(3)(o)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(p)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(r)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(s)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(t)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

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(u)(xxi)(u) a foster care review committee established under 41-3-115 or, when applicable, a
citizen review board established under Title 41, chapter 3, part 10;
(v)(xxii)(v) a school employee participating in an interview of a child by a child protection
specialist, county attorney, or peace officer, as provided in 41-3-202;
(w)(xxiii)(w) a member of a county or regional interdisciplinary child information and school safety
team formed under the provisions of 52-2-211;
(x)(xxiv)(x) members of a local interagency staffing group provided for in 52-2-203;
(y)(xxv)(y) a member of a youth placement committee formed under the provisions of 41-5-121; or
(z)(xxvi)(z) a principal of a school or other employee of the school district authorized by the
trustees of the district to receive the information with respect to a student of the district who is a client of the
department.

~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe
required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

(4) (a) The records described in subsection (3) must be disclosed to a member of the United
States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United
States or the state of Montana that protect children from abuse or neglect are being complied with or whether
the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records
relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
child whose records are to be reviewed, and any other information that will assist the department in locating the
records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records. The
orientation must include a checklist of documents that are regularly included in records, including but not limited

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1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
13 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

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(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

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confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a), ~~(4)(b)(iii)~~, and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

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1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential; Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.

21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

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2 - END -



**Legislative
Services
Division**

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may must~~ MAY must, upon request, be disclosed to the following persons or entities in this state and any other
4 state or country ~~within 10 days of receiving the request for records~~:

5 ~~(a)(i)(A)~~ a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 ~~(b)(ii)(B)~~ a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 ~~(c)(iii)(C)~~ a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 ~~(d)(iv)(D)~~ a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 ~~(e)(v)(E)~~ a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 ~~(f)(vi)(F)~~ the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 ~~(g)(vii)(G)~~ approved foster and adoptive parents who are or may be providing care for a child;

24 ~~(h)(viii)(H)~~ a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 ~~(i)(ix)(I)~~ an agency, including a probation or parole agency, that is legally responsible for the

supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(J)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(K)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(L)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(M)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(N)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(O)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(o) (a)(xv) (3)(O)~~ must be made in writing. Disclosure under this subsection ~~(3)(o) (a)(xv) (3)(O)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(P)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(Q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(R)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(S)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(T)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

1 ~~(u)(xxi)(U)~~ a foster care review committee established under 41-3-115 or, when applicable, a
2 citizen review board established under Title 41, chapter 3, part 10;
3 ~~(v)(xxii)(V)~~ a school employee participating in an interview of a child by a child protection
4 specialist, county attorney, or peace officer, as provided in 41-3-202;
5 ~~(w)(xxiii)(W)~~ a member of a county or regional interdisciplinary child information and school safety
6 team formed under the provisions of 52-2-211;
7 ~~(x)(xxiv)(X)~~ members of a local interagency staffing group provided for in 52-2-203;
8 ~~(y)(xxv)(Y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or
9 ~~(z)(xxvi)(Z)~~ a principal of a school or other employee of the school district authorized by the
10 trustees of the district to receive the information with respect to a student of the district who is a client of the
11 department.

12 ~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe~~
13 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

14 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
15 States congress or a member of the Montana legislature if all of the following requirements are met:

16 (i) the member receives a written inquiry regarding a child and whether the laws of the United
17 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
18 the laws need to be changed to enhance protections for children;

19 (ii) the member submits a written request to the department requesting to review the records
20 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
21 child whose records are to be reviewed, and any other information that will assist the department in locating the
22 records.

23 (iii) before reviewing the records, the member:

24 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
25 for unauthorized release of the information; and

26 (B) receives from the department an orientation of the content and structure of the records. The
27 orientation must include a checklist of documents that are regularly included in records, including but not limited

1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
13 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential.; Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

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68th Legislature 2023

SB0116.002.003

2 - END -



**Legislative
Services
Division**

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may must~~ MAY must, upon request, be disclosed to the following persons or entities in this state and any other
4 state or country ~~within 10 days of receiving the request for records~~:

5 ~~(a)(i)(A)~~ a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 ~~(b)(ii)(B)~~ a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 ~~(c)(iii)(C)~~ a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 ~~(d)(iv)(D)~~ a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 ~~(e)(v)(E)~~ a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 ~~(f)(vi)(F)~~ the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 ~~(g)(vii)(G)~~ approved foster and adoptive parents who are or may be providing care for a child;

24 ~~(h)(viii)(H)~~ a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 ~~(i)(ix)(I)~~ an agency, including a probation or parole agency, that is legally responsible for the

1 supervision of an alleged perpetrator of child abuse or neglect;

2 ~~(j)(x)(J)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project
3 and that is authorized by the department to conduct the research or evaluation;

4 ~~(k)(xi)(K)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or
5 of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a
6 treatment plan, and monitoring the plan;

7 ~~(l)(xii)(L)~~ the coroner or medical examiner when determining the cause of death of a child;

8 ~~(m)(xiii)(M)~~ a child fatality review team recognized by the department;

9 ~~(n)(xiv)(N)~~ a department or agency investigating an applicant for a license or registration that is
10 required to operate a youth care facility, day-care facility, or child-placing agency;

11 ~~(o)(xv)(O)~~ a person or entity who is carrying out background, employment-related, or volunteer-
12 related screening of current or prospective employees or volunteers who have or may have unsupervised
13 contact with children through employment or volunteer activities. A request for information under this subsection
14 ~~(3)(o) (a)(xv) (3)(O)~~ must be made in writing. Disclosure under this subsection ~~(3)(o) (a)(xv) (3)(O)~~ is limited to
15 information that indicates a risk to children posed by the person about whom the information is sought, as
16 determined by the department.

17 ~~(p)(xvi)(P)~~ the news media, if disclosure is limited to confirmation of factual information regarding
18 how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent
19 or guardian, as determined by the department;

20 ~~(q)(xvii)(Q)~~ an employee of the department or other state agency if disclosure of the records is
21 necessary for administration of programs designed to benefit the child;

22 ~~(r)(xviii)(R)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian
23 child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

24 ~~(s)(xix)(S)~~ a juvenile probation officer who is working in an official capacity with the child who is
25 the subject of a report in the records;

26 ~~(t)(xx)(T)~~ an attorney who is hired by or represents the department if disclosure is
27 necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

1 ~~(u)(xxi)(U)~~ a foster care review committee established under 41-3-115 or, when applicable, a
2 citizen review board established under Title 41, chapter 3, part 10;
3 ~~(v)(xxii)(V)~~ a school employee participating in an interview of a child by a child protection
4 specialist, county attorney, or peace officer, as provided in 41-3-202;
5 ~~(w)(xxiii)(W)~~ a member of a county or regional interdisciplinary child information and school safety
6 team formed under the provisions of 52-2-211;
7 ~~(x)(xxiv)(X)~~ members of a local interagency staffing group provided for in 52-2-203;
8 ~~(y)(xxv)(Y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or
9 ~~(z)(xxvi)(Z)~~ a principal of a school or other employee of the school district authorized by the
10 trustees of the district to receive the information with respect to a student of the district who is a client of the
11 department.

12 ~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe~~
13 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

14 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
15 States congress or a member of the Montana legislature if all of the following requirements are met:

16 (i) the member receives a written inquiry regarding a child and whether the laws of the United
17 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
18 the laws need to be changed to enhance protections for children;

19 (ii) the member submits a written request to the department requesting to review the records
20 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
21 child whose records are to be reviewed, and any other information that will assist the department in locating the
22 records.

23 (iii) before reviewing the records, the member:

24 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
25 for unauthorized release of the information; and

26 (B) receives from the department an orientation of the content and structure of the records. The
27 orientation must include a checklist of documents that are regularly included in records, including but not limited

1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
13 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential.; Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

68th Legislature 2023

SB0116.002.003

2 - END -

Authorized Print Version – SB 116

**Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB
116**

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski, (406) 444-6857

SB0116.002.003

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may must~~ MAY must, upon request, be disclosed to the following persons or entities in this state and any other
4 state or country ~~within 10 days of receiving the request for records~~:

5 ~~(a)(i)(A)~~ a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 ~~(b)(ii)(B)~~ a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 ~~(c)(iii)(C)~~ a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 ~~(d)(iv)(D)~~ a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 ~~(e)(v)(E)~~ a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 ~~(f)(vi)(F)~~ the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 ~~(g)(vii)(G)~~ approved foster and adoptive parents who are or may be providing care for a child;

24 ~~(h)(viii)(H)~~ a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 ~~(i)(ix)(I)~~ an agency, including a probation or parole agency, that is legally responsible for the

supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(J)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(K)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(L)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(M)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(N)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(O)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(o) (a)(xv) (3)(O)~~ must be made in writing. Disclosure under this subsection ~~(3)(o) (a)(xv) (3)(O)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(P)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(Q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(R)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(S)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(T)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

1 ~~(u)(xxi)(U)~~ a foster care review committee established under 41-3-115 or, when applicable, a
2 citizen review board established under Title 41, chapter 3, part 10;
3 ~~(v)(xxii)(V)~~ a school employee participating in an interview of a child by a child protection
4 specialist, county attorney, or peace officer, as provided in 41-3-202;
5 ~~(w)(xxiii)(W)~~ a member of a county or regional interdisciplinary child information and school safety
6 team formed under the provisions of 52-2-211;
7 ~~(x)(xxiv)(X)~~ members of a local interagency staffing group provided for in 52-2-203;
8 ~~(y)(xxv)(Y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or
9 ~~(z)(xxvi)(Z)~~ a principal of a school or other employee of the school district authorized by the
10 trustees of the district to receive the information with respect to a student of the district who is a client of the
11 department.

12 ~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe~~
13 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

14 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
15 States congress or a member of the Montana legislature if all of the following requirements are met:

16 (i) the member receives a written inquiry regarding a child and whether the laws of the United
17 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
18 the laws need to be changed to enhance protections for children;

19 (ii) the member submits a written request to the department requesting to review the records
20 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
21 child whose records are to be reviewed, and any other information that will assist the department in locating the
22 records.

23 (iii) before reviewing the records, the member:

24 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
25 for unauthorized release of the information; and

26 (B) receives from the department an orientation of the content and structure of the records. The
27 orientation must include a checklist of documents that are regularly included in records, including but not limited

1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) ~~Records~~ Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, ~~must be made available for the member to view but~~ may not be copied,
13 ~~recorded~~, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential; Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

**Amendment - 1st Reading/2nd House-blue - Requested by: Dennis Lenz - Conference
Committee on SB 116**

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski, (406) 444-6857

SB0116.002.001

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

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1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may must~~ **MAY must** be disclosed to the following persons or entities in this state and any other state or country
4 ~~within 10 days of receiving the request for records:~~

5 ~~(a)(i)(A)~~ a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 ~~(b)(ii)(B)~~ a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 ~~(c)(iii)(C)~~ a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 ~~(d)(iv)(D)~~ a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 ~~(e)(v)(E)~~ a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 ~~(f)(vi)(F)~~ the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 ~~(g)(vii)(G)~~ approved foster and adoptive parents who are or may be providing care for a child;

24 ~~(h)(viii)(H)~~ a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 ~~(i)(ix)(I)~~ an agency, including a probation or parole agency, that is legally responsible for the

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supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(J)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(K)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(L)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(M)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(N)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(O)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(o) (a)(xv) (3)(O)~~ must be made in writing. Disclosure under this subsection ~~(3)(o) (a)(xv) (3)(O)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(P)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(Q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(R)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(S)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(T)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

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1 ~~(u)(xxi)(U)~~ a foster care review committee established under 41-3-115 or, when applicable, a
2 citizen review board established under Title 41, chapter 3, part 10;
3 ~~(v)(xxii)(V)~~ a school employee participating in an interview of a child by a child protection
4 specialist, county attorney, or peace officer, as provided in 41-3-202;
5 ~~(w)(xxiii)(W)~~ a member of a county or regional interdisciplinary child information and school safety
6 team formed under the provisions of 52-2-211;
7 ~~(x)(xxiv)(X)~~ members of a local interagency staffing group provided for in 52-2-203;
8 ~~(y)(xxv)(Y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or
9 ~~(z)(xxvi)(Z)~~ a principal of a school or other employee of the school district authorized by the
10 trustees of the district to receive the information with respect to a student of the district who is a client of the
11 department.

12 ~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe~~
13 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

14 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
15 States congress or a member of the Montana legislature if all of the following requirements are met:

16 (i) the member receives a written inquiry regarding a child and whether the laws of the United
17 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
18 the laws need to be changed to enhance protections for children;

19 (ii) the member submits a written request to the department requesting to review the records
20 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
21 child whose records are to be reviewed, and any other information that will assist the department in locating the
22 records.

23 (iii) before reviewing the records, the member:

24 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
25 for unauthorized release of the information; and

26 (B) receives from the department an orientation of the content and structure of the records. The
27 orientation must include a checklist of documents that are regularly included in records, including but not limited

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1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
13 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

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(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

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confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

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Drafter: Madelyn Krezowski, (406) 444-6857

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1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential.; Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

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2 - END -

Authorized Print Version – SB 116

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be

Amendment - 1st Reading-white - (H) Human Services

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68th Legislature 2023

Drafter: Milly Allen, 406-444-9280

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detrimental to the child or harmful to another person who is a subject of information contained in the records,
~~may~~ must ~~may~~ be disclosed to the following persons or entities in this state and any other state or country
within 10 days of receiving the request for records:

~~(a)~~ (i)(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

~~(b)~~ (ii)(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

~~(c)~~ (iii)(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

~~(d)~~ (iv)(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

~~(e)~~ (v)(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

~~(f)~~ (vi)(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

~~(g)~~ (vii)(g) approved foster and adoptive parents who are or may be providing care for a child;

~~(h)~~ (viii)(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

~~(i)~~ (ix)(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

~~(j)~~ (x)(i) a person, agency, or organization that is engaged in a bona fide research or evaluation project

Amendment - 1st Reading-white - (H) Human Services

- 2023

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Drafter: Milly Allen, 406-444-9280

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1 and that is authorized by the department to conduct the research or evaluation;

2 ~~(k)(xi)(k)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or
3 of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a
4 treatment plan, and monitoring the plan;

5 ~~(l)(xii)(l)~~ the coroner or medical examiner when determining the cause of death of a child;

6 ~~(m)(xiii)(m)~~ a child fatality review team recognized by the department;

7 ~~(n)(xiv)(n)~~ a department or agency investigating an applicant for a license or registration that is
8 required to operate a youth care facility, day-care facility, or child-placing agency;

9 ~~(o)(xv)(o)~~ a person or entity who is carrying out background, employment-related, or volunteer-
10 related screening of current or prospective employees or volunteers who have or may have unsupervised
11 contact with children through employment or volunteer activities. A request for information under this subsection
12 ~~(3)(e) (a)(xv) (3)(o)~~ must be made in writing. Disclosure under this subsection ~~(3)(e) (a)(xv) (3)(o)~~ is limited to
13 information that indicates a risk to children posed by the person about whom the information is sought, as
14 determined by the department.

15 ~~(p)(xvi)(p)~~ the news media, if disclosure is limited to confirmation of factual information regarding
16 how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent
17 or guardian, as determined by the department;

18 ~~(q)(xvii)(q)~~ an employee of the department or other state agency if disclosure of the records is
19 necessary for administration of programs designed to benefit the child;

20 ~~(r)(xviii)(r)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian
21 child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

22 ~~(s)(xix)(s)~~ a juvenile probation officer who is working in an official capacity with the child who is
23 the subject of a report in the records;

24 ~~(t)(xx)(t)~~ an attorney who is hired by or represents the department if disclosure is necessary for
25 the investigation, defense, or prosecution of a case involving child abuse or neglect;

26 ~~(u)(xxi)(u)~~ a foster care review committee established under 41-3-115 or, when applicable, a
27 citizen review board established under Title 41, chapter 3, part 10;

28 ~~(v)(xxii)(v)~~ a school employee participating in an interview of a child by a child protection

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1 specialist, county attorney, or peace officer, as provided in 41-3-202;

2 ~~(w)(xxiii)(w)~~ a member of a county or regional interdisciplinary child information and school safety
3 team formed under the provisions of 52-2-211;

4 ~~(x)(xxiv)(x)~~ members of a local interagency staffing group provided for in 52-2-203;

5 ~~(y)(xxv)(y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or

6 ~~(z)(xxvi)(z)~~ a principal of a school or other employee of the school district authorized by the

7 trustees of the district to receive the information with respect to a student of the district who is a client of the
8 department.

9 ~~(b) A person who purposely or negligently fails to provide records requested within the timeframe~~
10 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

11 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
12 States congress or a member of the Montana legislature if all of the following requirements are met:

13 (i) the member receives a written inquiry regarding a child and whether the laws of the United
14 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
15 the laws need to be changed to enhance protections for children;

16 (ii) the member submits a written request to the department requesting to review the records
17 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
18 child whose records are to be reviewed, and any other information that will assist the department in locating the
19 records.

20 (iii) before reviewing the records, the member:

21 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
22 for unauthorized release of the information; and

23 (B) receives from the department an orientation of the content and structure of the records. The
24 orientation must include a checklist of documents that are regularly included in records, including but not limited
25 to the following:

26 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
27 evidence;

28 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

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(III) notes from family engagement meetings and foster care review meetings; and

(IV) notes included in electronic case records or in case files maintained in local offices regarding staffing and interactions with parents or legal guardians, providers, or attorneys.

(b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect, the department shall make available to the member all records concerning the child who is the subject of the written inquiry.

(ii) Records ~~Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.~~

(iii) A member may take notes to discuss the records with a parent or legal guardian about whom a report of alleged child abuse or neglect is made.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

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- 1 (ii) a sexual offense, as defined in 46-23-502, against the child;
- 2 (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;
- 3 or
- 4 (iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances
- 5 constituting the criminal manufacture or distribution of dangerous drugs.
- 6 (c) (i) The department shall promptly disclose the results of an investigation to an individual
- 7 described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety
- 8 team established pursuant to 52-2-211 upon the determination that:
- 9 (A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or
- 10 Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or
- 11 (B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession
- 12 of a Schedule I or Schedule II drug that is prohibited by state law.
- 13 (ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted
- 14 to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have
- 15 contact with drug paraphernalia as defined in 45-10-101.
- 16 (d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be
- 17 released within 5 business days to the county attorney of the county in which the acts that are the subject of a
- 18 report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual
- 19 exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a)
- 20 and to a county or regional interdisciplinary child information and school safety team established pursuant to
- 21 52-2-211.
- 22 (ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides
- 23 confidential services to victims of sexual assault shall report to the department as provided in this part without
- 24 disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.
- 25 (iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of
- 26 sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual
- 27 exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a
- 28 request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as

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1 described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

2 (6) A school or school district may disclose, without consent, personally identifiable information
3 from the education records of a pupil to the department, the court, a review board, and the child's assigned
4 attorney, guardian ad litem, or special advocate.

5 (7) Information that identifies a person as a participant in or recipient of substance abuse treatment
6 services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the
7 consent provisions of the law.

8 (8) The confidentiality provisions of this section must be construed to allow a court of this state to
9 share information with other courts of this state or of another state when necessary to expedite the interstate
10 placement of children.

11 (9) A person who is authorized to receive records under this section shall maintain the
12 confidentiality of the records and may not disclose information in the records to anyone other than the persons
13 described in subsections (3)(a)(~~ii~~), (4)(b)(iii), and (5). However, this subsection may not be construed to compel
14 a family member to keep the proceedings confidential.

15 (10) A news organization or its employee, including a freelance writer or reporter, is not liable for
16 reporting facts or statements made by an immediate family member under subsection (9) if the news
17 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the
18 proceeding.

19 (11) This section is not intended to affect the confidentiality of criminal court records, records of law
20 enforcement agencies, or medical records covered by state or federal disclosure limitations.

21 (12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to
22 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
23 guardian's attorney must be provided without cost."

24

25 **Section 2.** Section 41-3-1214, MCA, is amended to read:

26 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
27 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

28 (a) the legislator receives a written request from a person who has requested assistance from the

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1 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
2 the laws need to be changed to enhance protections for children;

3 (b) the legislator submits a written request to the ombudsman asking to review the records relating
4 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
5 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
6 records.

7 (c) before reviewing the records, the legislator:

8 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
9 for unauthorized release of the information; and

10 (ii) receives from the ombudsman an orientation of the content and structure of the records.

11 (2) (a) Records-Except as provided in subsection (2)(b), records disclosed pursuant to this section
12 are confidential. Records must be made available for the member to view but may not be copied, recorded,
13 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
14 The records may be viewed at any office maintained by the office of the child and family ombudsman.

15 (b) A member may:

16 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
17 member; and

18 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
19 defined in 45-2-101."

20

21 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

22

- END -

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SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST;~~ REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

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1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may~~ must ~~may~~ be disclosed to the following persons or entities in this state and any other state or country
4 within 10 days of receiving the request for records:

5 ~~(a)(i)(a)~~ a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 ~~(b)(ii)(b)~~ a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 ~~(c)(iii)(c)~~ a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 ~~(d)(iv)(d)~~ a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 ~~(e)(v)(e)~~ a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 ~~(f)(vi)(f)~~ the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 ~~(g)(vii)(g)~~ approved foster and adoptive parents who are or may be providing care for a child;

24 ~~(h)(viii)(h)~~ a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 ~~(i)(ix)(i)~~ an agency, including a probation or parole agency, that is legally responsible for the

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supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(i)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(k)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(l)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(m)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(n)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(o)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(e)(a)(xv)(3)(o)~~ must be made in writing. Disclosure under this subsection ~~(3)(e)(a)(xv)(3)(o)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(p)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(r)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(s)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(t)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

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(u)(xxi)(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v)(xxii)(v) a school employee participating in an interview of a child by a child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

(w)(xxiii)(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x)(xxiv)(x) members of a local interagency staffing group provided for in 52-2-203;

(y)(xxv)(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z)(xxvi)(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records. The orientation must include a checklist of documents that are regularly included in records, including but not limited

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1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) Records Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
13 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

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(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

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confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a), ~~(4)(b)(iii)~~, and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

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1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential; Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.

21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

68th Legislature 2023

SB0116.001.001

2 - END -



**Legislative
Services
Division**

MINUTES

MONTANA SENATE

68th LEGISLATURE - REGULAR SESSION

COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: Chair Sen. Tom McGillvray-R, on January 11, 2023 at 3:01 PM, in 317

ROLL CALL

Members Present: Sen. Tom McGillvray, Chair (R)
Sen. Kathy Kelker, Vice Chair (D)
Sen. Dennis Lenz, Vice Chair (R)
Sen. Becky Beard (R)
Sen. Carl Glimm (R)
Sen. Jen Gross (D)
Sen. Steve Hinebaugh (R)

Members Excused: Sen. Brad Molnar (R)
Sen. Susan Webber (D)

Staff Present: Trudy Burke, Secretary
Shari Damron, Attorney
Madelyn Krezowski, Attorney

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

SB 114 01/06/2023

SB 116 01/06/2023

Executive Action:

SB 4 DO PASS

SB 67 DO PASS

HEARING ON SB 116 - Revise confidentiality provisions related to child protective services cases

Opening Statement:

15:02:56 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 116, Revise confidentiality provisions related to child protective services cases.

Proponent Testimony:

15:07:47 Denise Johnson, Montana Child Protection Alliance (MCPA)

Opponent Testimony:

15:11:28 Nikki Grossberg, Child and Family Services (CFSD), Department of Public Health and Human Services (DPHHS)

15:11:44 Quint Nyman, Montana Federation of Public Employees (MFPE)

Informational Witness Testimony:

None

Questions from Committee:

15:13:03 Sen. Kathy Kelker

15:15:11 Sen. Dennis Lenz-R

15:15:38 Nikki Grossberg, CFSD, DPHHS

15:15:54 Sen. Kathy Kelker

15:16:22 Nikki Grossberg, CFSD, DPHHS

15:16:36 Sen. Becky Beard

15:18:00 Sen. Dennis Lenz-R

15:19:04 Sen. Tom McGillvray

15:19:40 Sen. Dennis Lenz-R

15:20:00 Sen. Tom McGillvray

15:21:14 Quint Nyman, MFPE

15:21:32 Sen. Carl Glimm

15:22:53 Sen. Dennis Lenz-R

15:22:57 Sen. Kathy Kelker

15:23:53 Sen. Dennis Lenz-R

Closing Statement:

15:24:06 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 116.

HEARING ON SB 114 - Eliminate anonymous reporting in child protective services cases

Opening Statement:

15:25:12 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 114, Eliminate anonymous reporting in child protective services cases.

Proponent Testimony:

15:28:48 Denise Johnson, Montana Child Protection alliance (MCPA)

15:35:07 Bob Leach, self

Opponent Testimony:

15:39:03 Nikki Grossberg, Child Family Services Division (CFSD) Department Public Health Human Services (DPHHS)

15:41:52 Dan Smith, Montana Police Protective Association (MPPA)

15:43:23 Brian Thompson, Montana County Attorneys Association (MCAA)

Informational Witness Testimony:

None

Questions from Committee:

15:43:32 Sen. Molnar has arrived

15:45:23 Sen. Kathy Kelker

15:48:42 Nikki Grossberg, CFSD, DPHHS

15:49:26 Sen. Becky Beard

15:51:07 Denise Johnson, MCPA

15:51:20 Sen. Carl Glimm

15:53:43 Nikki Grossberg, CFSD, DPHHS

Closing Statement:

15:54:25 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 114.

15:57:46 Recessed

16:09:06 Reconvened

EXECUTIVE ACTION ON SB 4 - Require sharing of reports of abuse and neglect at Montana State Hospital

16:09:22 **Motion:** Sen. Becky Beard moved that **SB 4 DO PASS.**

16:09:22 **Vote:** Motion carried unanimously by roll call vote.

Discussion:

16:09:36 Sen. Jen Gross

16:12:04 Sen. Brad Molnar

16:13:18 Sen. Carl Glimm

EXECUTIVE ACTION ON SB 67 - Generally revise scheduling of dangerous drugs

16:14:11 **Motion:** Sen. Becky Beard moved that **SB 67 DO PASS.**

16:14:11 **Vote:** Motion carried unanimously by voice vote.

Discussion:

16:14:41 Sen. Tom McGillvray

16:15:18 Sen. Kathy Kelker

16:15:52 Sen. Dennis Lenz

16:15:57 Sen. Carl Glimm

ADJOURNMENT

Adjournment: 16:16:58

Trudy Burke, Secretary

Additional Documents: [EXHIBIT\(230111PHSaad\)](#)



2023 Session

Additional Documents

May include the following:

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxy's
- Visitors sign in sheet.
- Informational Item's
- Witness Statements
- Zoom/Internet Testimony Information
- Any other type of documents such as:
@ Petitions, {if any} Emails, all documents given to
Committee Secretary after meeting. The original
exhibit/items are on file at the Montana Historical
Society and may be viewed there.

BUSINESS REPORT

MONTANA SENATE

REGULAR

(S) Public Health, Welfare and Safety

Date: 01/11/2023

Time: 3:00 PM

Place: Capitol

Room: 317

BILLS and RESOLUTIONS HEARD:

SB 114 Eliminate anonymous reporting in child protective services cases - Sen. Dennis Lenz

SB 116 Revise confidentiality provisions related to child protective services cases - Sen. Dennis Lenz

EXECUTIVE ACTION TAKEN:

SB 4:

SB 4 Do Pass

SB 67:

SB 67 Do Pass

Comments:



Sen. Tom McGillvray-R, Chair

Senate

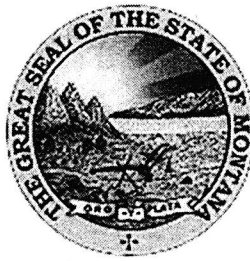
Roll Call

(S) Public Health, Welfare and Safety

DATE: 01/11/2023

TIME: 3:00 PM

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/EXCUSED</u>
Beard, Becky	X	
Glimm, Carl	X	
Gross, Jen	X	
Hinebauch, Steve	X	
Kelker, Kathy	X	
Lenz, Dennis	X	
McGillvray, Tom	X	
Molnar, Brad		X
Webber, Susan		X



Senate Standing Committee Report

January 11, 2023

page 1 of 1

To the President,

We, your committee on (S) **Public Health, Welfare and Safety** report that **Senate Bill 4** (first reading copy – white) **Do Pass**.

Carrier: Sen. Gross

Signed: _____

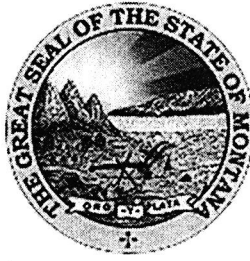
A handwritten signature in dark ink, appearing to read "Tom McGilvray", written over a horizontal line.

Sen. Tom McGilvray-R, Chair

-End-

Committee Vote:

Yes 9, No 0



Senate Standing Committee Report

January 11, 2023

page 1 of 1

To the President,

We, your committee on (S) **Public Health, Welfare and Safety** report that **Senate Bill 67** (first reading copy – white) **Do Pass**.

Signed: _____

Sen. Tom McGillvray-R, Chair

-End-

Committee Vote:

Yes 9, No 0

SENATE COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY
January 11, 2023
VOTE TABULATION - SB 4

Sen. Lenz made a Motion that SB 4 Do Pass
YEAS – 9 NAYS - 0

Y	Lenz, Dennis
Y	Beard, Becky
Y	Glimm, Carl
Y	Gross, Jen
Y	Hinebauch, Steve
Y	Kelker, Kathy
Y	Molnar, Brad
Y	Webber, Susan; by proxy
Y	McGillvray, Tom

SENATE COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY
January 11, 2023
VOTE TABULATION - SB 67

Sen. Lenz made a Motion that SB 67 Do Pass
YEAS – 9 NAYS - 0

Y	Lenz, Dennis
Y	Beard, Becky
Y	Glimm, Carl
Y	Gross, Jen
Y	Hinebauch, Steve
Y	Kelker, Kathy
Y	Molnar, Brad
Y	Webber, Susan; by proxy
Y	McGillvray, Tom

SENATE PROXY

I, Senator Susan A. Webber, hereby authorize Senator Kathy Kelker to vote my proxy before the Senate Public Health, Welfare & Safety meeting held on Wednesday, January 2023.

Senator Signature

Date

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☒ Votes only as directed below.

[illegible]

VISITORS REGISTER
MONTANA SENATE
PUBLIC HEALTH WELFARE AND SAFETY
January 11, 2023 SB 116 Sen.Lenz

Revise confidentiality provisions related to child protective services cases.

NAME	REPRESENTING	Support	Oppose	Informat'l
Denise Johnson	MCPA	✓		
Nick Grossley	CFSO		✓	
Quinn Nyma	MFPF		✗	
Raylene Short	Self	ⓧ	✓	

*Please leave prepared testimony with Committee Secretary. Witness Statement
Forms are available if you prefer to submit written testimony.*

VISITORS REGISTER

MONTANA SENATE

PUBLIC HEALTH WELFARE AND SAFETY

January 11, 2023

SB 114 Sen.Lenz

Eliminate anonymous reporting in child protective service cases

NAME	REPRESENTING	Support	Oppose	Informat'l
Denise Johnson	McPA	✓		
Nikla Grossberg	CFSD		✓	
Dan Smith	mppa		X	
Brian Thompson	MCAA		X	
Barb Leach	SELF	✓		
Raylene Short	Self	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement
Forms are available if you prefer to submit written testimony.

Burke, TrudyDate: Jan. 11, 2023Bill No. SB 114

From: raylene.short@yahoo.com
Sent: Thursday, January 12, 2023 6:26 PM
To: Burke, Trudy
Subject: Re: Testimony

Hi Trudy,

Thanks for letting me know. I will attach the PDF and also the text below.

Thanks!

Raylene

Raylene Short
6 Morning View Lane
Great Falls, MT 59404

January 11, 2023

Senate Public Health, Welfare, and Safety Committee

CC: Tom McGillvray, Dennis Lenz, Amy Regier, Wendy McKamey, Ryan Lynch, Jen Gross

RE: SB114 Eliminate anonymous reporting in child protective services cases

Dear Senate Public Health, Welfare, and Safety Committee,

I am writing this letter in support of SB114. I traveled from Great Falls to speak today, but due to misdirection and being sent to the room for HB114, I missed the opportunity to testify in person by about 5 minutes.

I share testimony from both professional and personal experiences. I have a Bachelor's Degree in Health and Human Development from MSU, Master's in Educational Leadership, and a history of working with children and families as a professional for over 18 years. I worked as a CPS caseworker in Phoenix where around 60% of reports were anonymously reported and 50% of all cases were made out of retaliation from various people including disgruntled family members, friends, and neighbors.

The practice of allowing anonymous reports siphoned large amounts of funding from the agency for those who used CPS as a weapon to target individuals they wanted to retaliate against. Children paid the cost due to the trauma caused by unnecessary investigations. Only about 3% of anonymous calls resulted in substantiated claims against families with less than 1% ever resulting in removal.

As a parent who would move mountains for my children and sacrifice everything for their health and well being, I never imagined I would be the target of anonymous reporting. In 2021, we had the

unfortunate experience of witnessing CPS pounding on our door and looking through our windows on our security system when we weren't home.

I was shocked to learn an anonymous report was made against me as a mother staging I was starving my child, torturing her, and never took her to the doctor in her life. She was about 4 months old when this happened and in the 90th+ percentile for height. She had at least 20 health visits prior to the report with weekly Dr. appointments, so it was easy to prove the report was made of blatant, uninformed lies. We even acquired two milk goats that I must milk 2x/day to make sure our baby received the best alternative to breast milk.

This call came with great expense and irreparable damage to our family and we felt helpless to do anything about it. The most extreme stress we ever felt in our lives came with this open CPS investigation and thinking our children could be ripped away from our family at any moment. I do not trust the agency from various personal and professional experiences and this heaped loads of distrust for the integrity of CPS.

The case worker who was also training another case worker went to my children's school and pulled them out of class, interrogated them in front of the school office where many students and staff were congregating making it known we were under investigation! It seemed our right to privacy meant nothing all from an anonymous call. The caseworkers told my 10 year old their mother was torturing and starving their sister. He became hysterical and overwhelmed with fear due to how he saw CPS in Great Falls destroy the lives of some very close and dear to us, where the claims were deemed unsubstantiated after the children were out of their home for a year. He was not the same child for over a month, cried for a week, and experienced extreme anxiety going to school for months after the incident. It took him many therapy appointments to work through the trauma caused by these extremely unprofessional caseworkers and I feel they caused irreparable trauma to my child all because of a retaliatory, anonymous call against me.

Several doctors, professionals, and a legislator wrote letters on our behalf stating our outstanding character, care for our children, and parenting. CPS was intent on digging up some reason to take my children and asked for ALL medical records for the entire lives of my boys ages 10, and 11, despite the report only being against my daughter, who we easily proved saw many health practitioners and was growing beautifully. It took hiring a private attorney and a legislator contacting the area director to get our case dropped.

It was acknowledged by the Great Falls Director that our case NEVER should have been marked priority 1 or treated as it was. If I felt we stood a chance of receiving a fair trial by a system stacked against parents where the judge, lawyers, and caseworkers all receive funds from the state, we would have sued the state for the undue trauma and the expenses they caused my children and our family.

An anonymous call caused extreme trauma to our family and children, not to mention the time and expense to hire a private lawyer to refute the obnoxious claims against me, and to remediate the damage done to my children. CPS resources should be used to support families, not as a weapon for anonymous individuals to use against families with children. Please consider passing SB114.

Thank you for your time and consideration.

Raylene Short CBCP

On Thursday, January 12, 2023 at 06:06:40 PM MST, Burke, Trudy <trudy.burke@legmt.gov> wrote:

Ms. Short,

I am the Committee Secretary for Public Health, Welfare and Safety. Some members are having a hard time opening your attachment with your testimony. Would you please send it to me and I will get it to them. Thank you.

Trudy Burke

Senate Committee Secretary

-Public Health, Welfare and Safety

-Highways and Transportation

Additional Documents

SENATE: Public Health

Burke, Trudy

Date: Jan 11, 2023
Bill No. SB116

From: leg-noreply@mt.gov
Sent: Tuesday, January 10, 2023 4:11 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-116: Revise confidentiality provisions related to child protective services cases 2023-01-11 03:00 PM - (S) Public Health, Welfare and Safety
Successfully Submitted on 01-10-23 16:11

Details:

Bill: SB-116: Revise confidentiality provisions related to child protective services cases 2023-01-11 03:00 PM - (S) Public Health, Welfare and Safety

Position: Informational Witness

Representing an Entity/Another Person: Yes

Organization: Office of the State Public Defender

Name: Brian C. Smith

Email: [REDACTED]

Phone: [REDACTED]

City, State: Missoula, MT

Written Statement: Not Provided

Files:

Testify via Zoom: Yes

Zoom Method: Computer

MINUTES

MONTANA SENATE

68th LEGISLATURE - REGULAR SESSION

COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: Chair Sen. Tom McGillvray-R, on January 13, 2023 at 2:00 PM, in 317

ROLL CALL

Members Present: Sen. Tom McGillvray, Chair (R)
Sen. Kathy Kelker, Vice Chair (D)
Sen. Dennis Lenz, Vice Chair (R)
Sen. Becky Beard (R)
Sen. Carl Glimm (R)
Sen. Steve Hinebauch (R)
Sen. Brad Molnar (R)
Sen. Susan Webber (D)

Members Excused: Sen. Jen Gross (D)

Staff Present: Trudy Burke, Secretary
Madelyn Krezowski, Attorney

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

HB 39 01/10/2023

SB 113 01/06/2023

SB 115 01/06/2023

Executive Action:

SB 36 DO PASS

SB 114 DO PASS

SB 116 DO PASS

HB 39

HEARING ON SB 113 - Make permanent certain notification requirements in CPS cases

Opening Statement:

14:05:23 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 113, Make permanent certain notification requirements in CPS cases.

Proponent Testimony:

14:08:37 Matt Furlong, Montana Child Protection Alliance (MCPA)

14:09:19 Nikki Grossberg, Child and Family Services (CFS), Department of Public Health and Human Services (DPHHS)

14:10:15 Nanette Gilbertson, Montana County Attorney's Association (MCAA)

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

None

Closing Statement:

14:11:16 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 113.

HEARING ON SB 115 - Revise definition of psychological abuse or neglect in CPS cases

Opening Statement:

14:11:38 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 115, Revise definition of psychological abuse or neglect in CPS cases.

Proponent Testimony:

14:15:27 Lindsay Hill-Williams, self

14:19:29 Kyla Hailstone, Montana Family Court Awareness Project
14:23:08 Elizabeth Peterson, self
14:26:00 Denise Johnston, Montana Child Protection Alliance (MCPA)
14:28:29 Matt Furlong, Montana Child Protection Alliance (MCPA)
14:30:40 Dave Kesler, self

[EXHIBIT\(230113PHSa1\)](#)

Opponent Testimony:

14:37:42 Nikki Grossberg, Child and Family Services (CFS), Department of Public Health and Human Services (DPHHS)
14:38:25 Nanette Gilberston, Montana County Attorney's Association (MCAA)
14:39:12 Lauren Wilson, Montana Chapter, American Academy of Pediatrics

Informational Witness Testimony:

None

Questions from Committee:

14:43:24 Sen. Kathy Kelker
14:47:20 Sen. Dennis Lenz-R
14:47:55 Sen. Tom McGillvray
14:48:05 Sen. Dennis Lenz-R

Closing Statement:

14:48:22 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 115.

EXECUTIVE ACTION ON SB 36 - Eliminate certain DPHHS statutorily required reports

14:57:14 **Substitute Motion:** Sen. Dennis Lenz moved that **SB 36 BE AMENDED.**

Discussion:

14:49:44 Recessed

14:56:18 Reconvened

14:57:30 Sen. Dennis Lenz

14:57:33 Madelyn Krezowski

14:58:04 Sen. Kathy Kelker

14:58:33 Sen. Carl Glimm

14:59:13 Madelyn Krezowski

14:57:14 **Vote:** Substitute Motion failed 6 - 3 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Webber, voting yes.
Sen. Gross, By Proxy

15:00:43 **Motion:** Sen. Dennis Lenz moved that **SB 36 BE AMENDED.**

Discussion:

15:01:39 Sen. Carl Glimm

15:01:05 Sen. Dennis Lenz

15:00:43 **Vote:** Motion carried unanimously by roll call vote.

15:03:09 **Motion:** Sen. Dennis Lenz moved that **SB 36 DO PASS AS AMENDED.**

15:03:09 **Vote:** Motion carried unanimously by voice vote.

14:57:08 **Motion:** Sen. Dennis Lenz moved that **SB 36 DO PASS.**

14:57:08 **Vote:** Motion failed unanimously by voice vote.

EXECUTIVE ACTION ON SB 114 - Eliminate anonymous reporting in child protective services cases

15:03:51 **Motion:** Sen. Dennis Lenz moved that **SB 114 DO PASS.**

Discussion:

15:04:13 Sen. Dennis Lenz

15:05:32 Sen. Brad Molnar

15:07:50 Sen. Dennis Lenz

15:09:08 Sen. Brad Molnar

15:09:41 Sen. Dennis Lenz

15:10:25 Sen. Steve Hinebauch

15:11:05 Sen. Kathy Kelker

15:12:00 Sen. Tom McGillvray
15:12:28 Sen. Dennis Lenz
15:03:51 **Vote:** Motion carried 5 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Molnar, Sen. Webber, voting no.
Sen. Gross, By Proxy

EXECUTIVE ACTION ON SB 116 - Revise confidentiality provisions related to child protective services cases

15:15:26 **Substitute Motion:** Sen. Dennis Lenz moved that **SB 116 BE AMENDED.**

Discussion:

15:14:12 Sen. Dennis Lenz
15:16:58 Sen. Carl Glimm
15:18:35 Sen. Kathy Kelker
15:20:13 Sen. Dennis Lenz
15:15:26 **Vote:** Substitute Motion failed 5 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Lenz, Sen. Webber, voting yes.
Sen. Gross, By Proxy

15:22:21 **Motion:** Sen. Dennis Lenz moved that **SB 116 DO PASS.**

15:22:21 **Vote:** Motion carried unanimously by voice vote.

15:15:12 **Motion:** Sen. Dennis Lenz moved that **SB 116 DO PASS.**

Discussion:

15:13:58 Sen. Dennis Lenz
15:15:12 **Vote:** Motion failed unanimously by voice vote.

EXECUTIVE ACTION ON HB 39 - Eliminate county administration fee for youth residential services

15:23:09 **Motion:** Sen. Dennis Lenz moved that **HB 39 BE CONCURRED IN.**

15:23:09 **Vote:** Motion carried unanimously by voice vote.

15:23:09 **Carrier Assigned:** Sen. Dennis Lenz

HEARING ON HB 39 - Eliminate county administration fee for youth residential services

Opening Statement:

14:01:53 Rep. Amy Regier (R), HD 6, opened the hearing on HB 39, Eliminate county administration fee for youth residential services.

Proponent Testimony:

14:03:18 Erica Johnston, Department of Public Health and Human Services (DPHHS)

Opponent Testimony:

None

Informational Witness Testimony:

None

Proponent Testimony:

None

Questions from Committee:

None

ADJOURNMENT

Adjournment: 15:25:17

Trudy Burke, Secretary

Additional Documents: [EXHIBIT\(230113PHSaad\)](#)



2023 Session

Additional Documents

May include the following:

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxy's
- Visitors sign in sheet.
- Informational Item's
- Witness Statements
- Zoom/Internet Testimony Information
- Any other type of documents such as:
@ Petitions, {if any} Emails, all documents given to
Committee Secretary after meeting. The original
exhibit/items are on file at the Montana Historical
Society and may be viewed there.

**BUSINESS REPORT
MONTANA SENATE
REGULAR**

(S) Public Health, Welfare and Safety

Date: 01/13/2023

Time: 2:00 PM

Place: Capitol

Room: 317

BILLS and RESOLUTIONS HEARD:

HB 39 Eliminate county administration fee for youth residential services - Rep. Amy Regier

SB 113 Make permanent certain notification requirements in CPS cases - Sen. Dennis Lenz

SB 115 Revise definition of psychological abuse or neglect in CPS cases - Sen. Dennis Lenz

EXECUTIVE ACTION TAKEN:

HB 39:

HB 39 Be Concurred In

SB 114:

SB 114 Do Pass

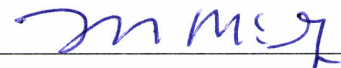
SB 116:

SB 116 Do Pass

SB 36:

SB 36 Do Pass

Comments:



Sen. Tom McGillvray-R, Chair

Senate

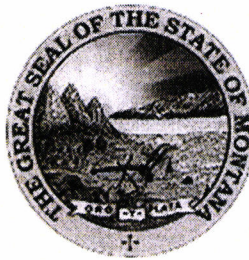
Roll Call

(S) Public Health, Welfare and Safety

DATE: 01/13/2023

TIME: 3:00 PM

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/EXCUSED</u>
Beard, Becky	X	
Glimm, Carl	X	
Gross, Jen		X
Hinebauch, Steve	X	
Kelker, Kathy	X	
Lenz, Dennis	X	
McGillvray, Tom	X	
Molnar, Brad	X	
Webber, Susan	X	



Senate Standing Committee Report

January 13, 2023

page 1 of 1

To the President,

We, your committee on (S) **Public Health, Welfare and Safety** report that **Senate Bill 116** (first reading copy – white) **Do Pass**.

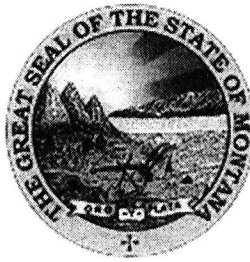
Signed: _____

Sen. Tom McGillvray-R, Chair

-End-

Committee Vote:

Yes 9, No 0



Senate Standing Committee Report

January 13, 2023

page 1 of 1

To the President,

We, your committee on (S) **Public Health, Welfare and Safety** report that **Senate Bill 114** (first reading copy – white) **Do Pass**.

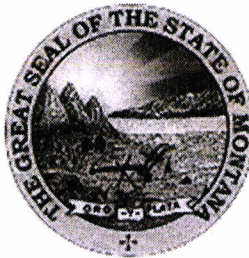
Signed: _____

Sen. Tom McGillvray-R, Chair

-End-

Committee Vote:

Yes 5, No 4



Senate Standing Committee Report

January 13, 2023

page 1 of 1

To the President,

We, your committee on **(S) Public Health, Welfare and Safety** report that **House Bill 39** (first reading copy – white) **Be Concurred In.**

Signed: _____

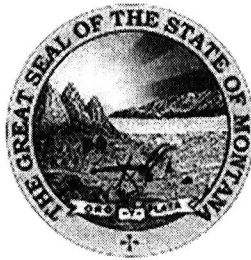
A handwritten signature in dark ink, appearing to read "Tom McGillvray", written over a horizontal line.

Sen. Tom McGillvray-R, Chair

-End-

Committee Vote:

Yes 9, No 0



Senate Standing Committee Report

January 13, 2023

page 1 of 1

To the President,

We, your committee on (S) **Public Health, Welfare and Safety** report that **Senate Bill 36** (first reading copy – white) **Do Pass as Amended**. The referenced amendment is SB0036.001.002.

Carrier: Sen. Lenz

Signed: _____

Sen. Tom McGillvray-R, Chair

-End-

Committee Vote:

Yes 9, No 0

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

- 2023

68th Legislature 2023

Drafter: Sue O'Connell, 406-444-3597

SB0036.001.002

SENATE BILL NO. 36

INTRODUCED BY D. LENZ

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN STATUTORILY REQUIRED REPORTS FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; AMENDING SECTIONS 5-12-303, 52-3-115, AND 53-4-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies. (1) The legislative fiscal analyst may investigate and examine the costs and revenue of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies and may not disclose confidential records or information to legislators.

(3) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the legislative fiscal analyst when the values on the requested return, including estimated payments, are considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

- 2023

68th Legislature 2023

Drafter: Sue O'Connell, 406-444-3597

SB0036.001.002

1 evaluate the effect of the return or payments on the analysis being performed.

2 (4) (a) The department of public health and human services shall provide the legislative fiscal
3 analyst direct access to the department's secure data warehouse as the phases of the secure data warehouse
4 project are implemented.

5 (b) The department of public health and human services shall consult with the legislative fiscal
6 analyst and shall establish user requirements to ensure the legislative fiscal analyst does not have access to
7 direct identifiers stored on the secure data warehouse. The department of public health and human services
8 shall consult with the legislative fiscal analyst and shall establish requirements to ensure the legislative fiscal
9 analyst does not have access to direct identifiers stored in other data systems where the data is not available
10 through the secure data warehouse after the phases of the secure data warehouse project are implemented.

11 (c) The data must be made available to the legislative fiscal analyst in a format that complies with
12 the regulations of the respective federal programs.

13 ~~(d) The department of public health and human services shall submit quarterly reports in an electronic~~
14 ~~format to the legislative finance committee and the children, families, health, and human services interim~~
15 ~~committee in accordance with 5-11-210 on the following:~~

16 ~~(i) the implementation of the phases of the secure data warehouse project;~~

17 ~~(ii) the user requirements established by the department and the legislative fiscal analyst; and~~

18 ~~(iii) the status of the legislative fiscal analyst's access to the secure data warehouse.~~

19 (d) The department of public health and human services shall provide the legislative fiscal analyst
20 with a summary of the data available in the secure data warehouse and shall provide an update when new data
21 sets are added. The summary must include the list of fields available for the legislative fiscal analyst to access.

22 (5) Within 1 day after the legislative finance committee presents its budget analysis to the
23 legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement
24 recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This
25 information must be filed in the respective offices and be made available to the legislature and the public. In
26 preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal
27 analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

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SB0036.001.002

(6) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure or if the department of revenue notifies the fiscal analyst that specified records or information may contain confidential information."

Section 2. Section 52-3-115, MCA, is amended to read:

"52-3-115. Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative transfer and appropriation as provided in this section.

(2) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those services.

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund.

(5) Ninety percent of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).

~~(6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210."~~

Section 3. Section 53-4-209, MCA, is amended to read:

"53-4-209. Montana parents as scholars program -- department duties. (1) There is a Montana parents as scholars program administered by the department.

(2) The department shall:

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

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(a) use state maintenance of effort funds or temporary assistance for needy families funds in a program to provide assistance to eligible households for the purpose of continuation of education leading toward a high school diploma, a high school equivalency diploma, vocational training, an associate's degree, or a baccalaureate degree;

(b) allow an individual receiving temporary assistance for needy families to attend an approved educational program if the individual:

(i) meets the income and resource eligibility requirements for temporary assistance for needy families; and

(ii) qualifies as a full-time student pursuant to subsection (4); and

(c) limit approved educational programs to educational courses that are intended to promote economic self-sufficiency, not to exceed the baccalaureate level.

(3) The participants may apply for and may be eligible for child-care assistance provided by the department to be paid from the temporary assistance for needy families block grant funds that are transferred to discretionary funding for child care.

(4) A program must require a participant to be a full-time student, which means that a participant:

(a) shall maintain enrollment in at least 12 credit hours each semester or 30 credit hours a year; or

(b) must be a full-time high school student, student studying for a high school equivalency diploma, or vocational training student as defined by the institution in which the participant is enrolled;

(c) shall maintain a 2.0 grade point average on a 4.0 grade point scale or be making satisfactory progress as defined by the institution in which the participant is enrolled; and

(d) may not be allowed to remain in the program after receiving a baccalaureate degree.

(5) (a) There may be no more than 25 participants in the program at any one time.

(b) Temporary assistance for needy families participants within the 12-month period allowed by federal law do not count in the total number of participants in the parents as scholars program. However, the parents as scholars program may be used to extend a participant's education beyond the 12-month federal period.

~~(6) The department shall provide annual reports to the legislative finance committee and the children,~~

Amendment - 1st Reading-white - Requested by: Dennis Lenz - (S) Public Health, Welfare and Safety

- 2023

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Drafter: Sue O'Connell, 406-444-3597

SB0036.001.002

1 ~~families, health, and human services interim committee in accordance with 5-11-210."~~

2

3 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

4

- END -

SENATE COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY
January 13, 2023
VOTE TABULATION - SB 36

Sen. Lenz made a Substitute Motion that SB0036.001.001 Be Amended
YEAS – 3 NAYS - 6

N	Lenz, Dennis
N	Beard, Becky
N	Glimm, Carl
Y	Gross, Jen; by proxy
N	Hinebauch, Steve
Y	Kelker, Kathy
N	Molnar, Brad
Y	Webber, Susan
N	McGillvray, Tom

SENATE COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY
January 13, 2023
VOTE TABULATION - SB 36

Sen. Lenz made a Motion that SB0036.001.002 Be Amended
YEAS – 9 NAYS - 0

Y	Lenz, Dennis
Y	Beard, Becky
Y	Glimm, Carl
Y	Gross, Jen; by proxy
Y	Hinebauch, Steve
Y	Kelker, Kathy
Y	Molnar, Brad
Y	Webber, Susan
Y	McGillvray, Tom

SENATE COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY
January 13, 2023
VOTE TABULATION - SB 114

Sen. Lenz made a Motion that SB 114 Do Pass
YEAS – 5 NAYS - 4

Y	Lenz, Dennis
Y	Beard, Becky
Y	Glimm, Carl
N	Gross, Jen; by proxy
Y	Hinebauch, Steve
N	Kelker, Kathy
N	Molnar, Brad
N	Webber, Susan
Y	McGillvray, Tom

SENATE COMMITTEE ON (S) PUBLIC HEALTH, WELFARE AND SAFETY
January 13, 2023
VOTE TABULATION - SB 116

Sen. Lenz made a Substitute Motion that SB0116.001.001 Be Amended
YEAS – 4 NAYS - 5

Y	Lenz, Dennis
N	Beard, Becky
N	Glimm, Carl
Y	Gross, Jen; by proxy
N	Hinebauch, Steve
Y	Kelker, Kathy
N	Molnar, Brad
Y	Webber, Susan
N	McGillvray, Tom

SENATE PROXY

I, Senator Gross, hereby authorize Senator Kathy Kellner to vote my proxy before the Senate Public Health meeting held on January 13, 2023.

Senator Signature

Date _____

Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

Burke, Trudy

SENATE: Public Health

From: leg-noreply@mt.gov
Sent: Tuesday, January 10, 2023 2:10 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-10-23 14:09

Date: Jan 13, 2023
Bill No. SB115

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety

Position: Opponent

Representing an Entity/Another Person: Yes

Organization: Shodair Children's Hospital / MPA

Name: Thomas Hoffman, MD

Email: thoffman@shodair.org

Phone: (406) 444-1120

City, State: Butte, MT

Written Statement: The language of the proposed amendments limits the ability to diagnose only to psychologists, even though there are multiple other groups qualified to make an appropriate diagnosis under the DSM including psychiatrists, child psychiatrists, psychiatric nurse practitioners, and other medical providers. Limiting the scope of who can diagnose under these amendments has the risk of allowing abused children to fall through the cracks or not receive services that are needed for safety.

Files:

Testify via Zoom: Yes

Zoom Method: Computer

Burke, Trudy

From: leg-noreply@mt.gov
Sent: Thursday, January 12, 2023 10:29 AM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-12-23 10:29

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety
Position: Opponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Stephen Underwood
Email: pastor@gfccc.net
Phone: (513) 808-5860
City, State: Great Falls, MT
Written Statement: Not Provided
Files:
Testify via Zoom: Yes
Zoom Method: Computer

Burke, Trudy

From: leg-noreply@mt.gov
Sent: Thursday, January 12, 2023 1:18 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-12-23 13:18

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety

Position: Proponent

Representing an Entity/Another Person: No

Organization: N/A

Name: Jacob Handy

Email: prazin@hotmail.com

Phone: (406) 253-1381

City, State: Eureka,Mt

Written Statement: Zilah Handy and Elliot Handy to give testimony also

Files:

Testify via Zoom: Yes

Zoom Method: Phone

Burke, Trudy

From: leg-noreply@mt.gov
Sent: Thursday, January 12, 2023 4:38 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-12-23 16:38

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Elizabeth Peterson
Email: Gneitinge@gmail.com
Phone: (406) 570-9923
City, State: Bozeman MT
Written Statement: Not Provided
Files:
Testify via Zoom: Yes
Zoom Method: Computer

Burke, Trudy

From: leg-noreply@mt.gov
Sent: Thursday, January 12, 2023 2:57 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-12-23 14:56

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety

Position: Opponent

Representing an Entity/Another Person: Yes

Organization: National Association of Social Workers, Montana

Name: Nathan Stahley

Email: nstahley.naswmt@socialworkers.org

Phone: (406) 449-6208

City, State: Missoula, MT

Written Statement: Not Provided

Files:

Testify via Zoom: Yes

Zoom Method: Computer

Burke, Trudy

From: leg-noreply@mt.gov
Sent: Thursday, January 12, 2023 2:47 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-12-23 14:47
Attachments: LEGAL MEMORANDUM.pdf; Legislative Resources on denouncing PA.pdf; 2211 Family Court Awareness Month.pdf

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety

Position: Proponent

Representing an Entity/Another Person: Yes

Organization: MT Family Court Awareness Project

Name: Kyla Hailstone

Email: khsmallbusinessconsultant@gmail.com

Phone: (406) 672-6856

City, State: Roundup, MT

Written Statement: My name is Kyla Hailstone. I am a paralegal, advocate, and family law specialist. I am here today on behalf of the MT Family Court Awareness project to support SB115. This bill brings forth much needed clarification to MT definitions of child abuse, and ensures stronger protections for children in need. As we heard from the Child Protection Unit in interim committee testimony, this code is vaguely legislated and open to interpretation at will by CFS workers. This has been reaffirmed in testimony in HB37 on Tuesday by the Office of Public defenders. As it is currently written the definitions of child abuse are broad and vague, particularly in Sec. 22 and 24. With overlap in Sec 20 and 21. SB115 clearly identifies each type of abuse under its own section and removes repeat and conflicting definitions. Of most significance to the MT Family Court Awareness Project, is a clear definition of Psychological Abuse, and requirements of the professionals that may diagnose this in a child. You will hear from many families today the impact of a false or unrecognized diagnosis, masked as "psychological abuse" finding, will have on children.

As an example of a false psychological abuse diagnosis, What our groups have uncovered is a constitutional crisis and systemic failings centering around a singular theory and denounced legal tactic used by licensed mental health professionals and CFS, Parental Alienation . Parental Alienation has been nationally and globally discredited and denounced as a clinical diagnosis. I have provided the committee with additional resource materials. Even though PA is unrecognized and considered "junk" science, these false assessments, costing the state between \$5,000 - \$24,000 per evaluation, have resulted in the restriction and termination of parental rights in MT Family Courts. Once accusations of PAS are offered by professionals whether CFS or a mental health professional, MT courts will often create a parenting plan that requires the safe parent to only see their children in a supervised visit situation or restrict any and all contact with the child. SB115 closes this loophole by ensuring a licensed MH professional alone can diagnose "psychological abuse" and outlines MH care standards to follow.

2022 US Congressional Findings:

evidence from court-affiliated or appointed fee-paid professionals regarding adult or child abuse allegations in custody cases should be considered only when the professional possesses documented expertise and experience in the relevant types of abuse, trauma, and the behaviors of victims and perpetrators; Scientifically unsound theories that treat abuse allegations as likely false attempts to undermine one parent are frequently applied in family court to minimize or deny reports of abuse of parents and children.

SB115 not only prioritizes the safety of MT children, it will shore up MT Family Courts and CFS procedures. I beg you to pass this bill for MT children.

Files: LEGAL MEMORANDUM.pdf Legislative Resources on denouncing PA.pdf 2211 Family Court Awareness Month.pdf
Testify via Zoom: Yes Zoom Method: Computer

LEGAL MEMORANDUM

Question Presented:

Are MT Family Law Court decisions ,determining custody, made on the following grounds:

- *allegations of Parental Alienation, Alienation Distraction Tactics, and/or;*
- *Based on the expert testimony of a Parental Alienation therapist/expert*

an egregious violation of fundamental rights as expressly stated in US Constitution and MT Constitution, Montana Code Annotated, and Administrative Rules Mandated?

Short Answer:

An accusation of parental alienation creates a statistically high probability that the judge/standing master will ignore previous evidence of abuse and return primary or full custody of the children back to the documented abuser. Once accusations of PAS are offered by professionals, the court will often create a parenting plan that requires the safe parent to only see their children in a supervised visit situation or restrict any and all contact with the child. The use of this legal tactic in our family law courts decisions, significantly violates MT Constitution, Montana Code Annotated, MT Civ RP, Administrative Rules Mandated, and by state definition under Title 41; qualifies as “psychological abuse”.

Discussion:

- I. Domestic violence (DV) is more than just physical abuse. During the relationship, domestic violence can be coercive control, physical abuse, verbal abuse, emotional abuse, psychological abuse, sexual abuse, and financial abuse. When the relationship ends, the abuse does not stop, it just transitions to a new form of abuse referred to as post separation abuse or Domestic Abuse by Proxy. Allegations of Parental Alienation are a form of Domestic Violence, and expressly addressed within Montana Code Annotated.

II. US 2022 Congressional findings HELD:

- (1) *Approximately 1 in 15 U.S. children is exposed to domestic violence each year.*
- (6) *Empirical research indicates that courts regularly discount allegations of child physical and sexual abuse when those allegations are raised in child custody cases. Courts believed less than 1/4 of claims that a father has committed child physical or sexual abuse. With respect to cases in which an allegedly abusive parent claimed the mother “alienated” the child, courts believed only 1 out of 51 claims of sexual molestation by a father. Independent research indicates that child sexual abuse allegations are credible between 50 and 70 percent of the time.*
- (7) *Empirical research shows that alleged or known abusive parents are often granted custody or unprotected parenting time by courts. Approximately 1/3 of parents alleged to have committed child abuse took primary custody from the protective parent reporting the abuse, placing children at ongoing risk.*
- (9) *Scientifically unsound theories that treat abuse allegations of mothers as likely false attempts to undermine fathers are frequently applied in family court to minimize or deny reports of abuse of parents*

and children. Many experts who testify against abuse allegations lack expertise in the relevant type of alleged abuse, relying instead on unsound and unproven theories.

(10) Judges presiding over custody cases involving allegations of child abuse, child sexual abuse, and domestic violence are rarely required to receive training on these subjects, and most States have not established standards for such training.

Legal Analysis

A. THE CONSTITUTION OF THE UNITED STATES

I. Parental Rights

1. The Fourteenth Amendment to the U.S. Constitution provides that no State shall “deny to any person within its jurisdiction the equal protection of the laws.”
2. More recently, this Court declared in *Washington v. Glucksberg*, 521 U.S. 702 (1997), that the Constitution, and specifically the Due Process Clause of the Fourteenth Amendment, **protects the fundamental right of parents to direct the care, upbringing, and education of their children.**

II. Children’s Rights

1. The U.S. Supreme Court has long recognized that children are protected by the U.S. Constitution. “Whatever may be their precise impact, neither the Fourteenth Amendment, nor the Bill of Rights, is for adults alone.” *In re Gault*, 387 U.S. 1, 13 (1967).
2. The Supreme Court has further said, “Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional Rights”. *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 74 (1976)

B. H.Con.Res.72 — 115th Congress (2017-2018)

The issue of children’s safety in family law matters has become a significant factor in early childhood development, trauma and mental health; it was addressed on a Federal level in the aforementioned Resolution.

Expresses the sense of Congress that:

- “child safety is the first priority of custody and parenting adjudications, and courts should resolve safety risks and claims of family violence before assessing other best interest factors;
- all evidence admitted in custody and parenting adjudications should be subject to evidentiary admissibility standards;
- evidence from court-affiliated or appointed fee-paid professionals regarding adult or child abuse allegations in custody cases should be considered only when the professional possesses documented expertise and experience in the relevant types of abuse, trauma, and the behaviors of victims and perpetrators;

B. TITLE XV- KEEPING CHILDREN SAFE FROM FAMILY VIOLENCE

March 2022 the recognition of the lack of trauma informed education and training in Family Law Courts Nationwide, as well as the acknowledgement of private institutions profiting from a denounced mental health condition warranted the passing of Safety of the Child First Act federally. Specifically barring the restriction or removal of parental rights solely based on allegations of Parental Alienation, or the evaluation of a Parental Alienation expert.

“(i) a court may not, solely in order to improve a deficient relationship with the other parent of a child, remove the child from a parent or litigating party— ‘(ii) a court may not, solely in order to improve a deficient relationship with the other parent of a child, restrict contact between the child and a parent or litigating party—

“(I) who is competent, protective, and not physically or sexually abusive; and

“(II) with whom the child is bonded or to whom the child is attached;

“(iv) a court may not order a reunification treatment that is predicated on cutting off a child from a parent with whom the child is bonded or to whom the child is attached; and

“(B) require that a professional described in subparagraph (A) possess demonstrated expertise and clinical experience in working with victims of domestic violence or child abuse, including child sexual abuse, that is not solely of a forensic nature.

“(C) relies on evidence-based and peer-reviewed research by recognized experts in the types of abuse described in subparagraph (A);

“(D) does not include theories, concepts, or belief systems unsupported by the research

C. MONTANA LAW

Montana has historically upheld the fundamental rights of all citizens, both adults and children. As well as preserving the family unit, and prioritizing the best of interest of the child.

I. Montana State Constitution

- A. Section 3. Inalienable rights.
- B. Section 4. Individual dignity.
- C. Section 17. Due process of law.

II. Montana Code Annotated

- III. **§40-4-227. Rights of parents and children -- policy -- findings.** (1) It is the policy of the state of Montana: (a) to recognize the constitutionally protected rights of parents and the integrity of the family unit;

(b) to recognize a child's constitutionally protected rights, including all fundamental rights unless those rights are specifically precluded by laws that enhance their protection; and

(c) to ensure that the best interests of the child are met in parenting proceedings.

I. Parental Rights

Montana has long held that parental rights are a constitutionally protected, fundamental right. , *Kulstad v. Maniaci*, 220 P.3d 595, 542 (Mont. 2009): *The MT Supreme Court upheld strict scrutiny protection to parental rights. "The liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court."*

A. §20-5-501. Purpose -- legislative intent -- parental rights -- definitions.

B. §40-6-501. Purpose -- legislative intent -- parental rights -- definitions.

Montana has further expressed the strict prohibition of governmental interference with these fundamental rights, without good cause.

§40-6-701. Interference with fundamental parental rights restricted -- cause of action. (1) A governmental entity may not interfere with the fundamental right of parents to direct the upbringing, education, health care, and mental health of their children unless the governmental entity demonstrates that the interference:

(3) When a parent's fundamental rights protected by this section are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against the governmental entity. The prevailing party in an action filed pursuant to this section is entitled to reasonable attorney fees and costs. History: En. Sec. 1, Ch. 502, L. 2021.

I. Children's Rights:

Montana expressly recognizes the fundamental and constitutionally protected rights of children “The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this Article unless specifically precluded by laws which enhance the protection of such persons.”

Montana has adhered to prioritizing the Best Interests of Children, holding that:

1. **§40-4-212. Best interest of child.** (1) The court shall determine the parenting plan in accordance with the best interest of the child. The court shall consider all relevant parenting factors, which may include but are not limited to:
 - (l) whether the child has frequent and continuing contact with both parents, which is considered to be in the child's best interests unless the court determines, after a hearing, that contact with a parent would be detrimental to the child's best interests. In making that determination, the court shall consider evidence of physical abuse or threat of physical abuse by one parent against the other parent or the child”

E. PARENTAL ALIENATION

Richard Gardner developed his self proclaimed diagnosis of Parental Alienation in the 1980's. Gardner purported that when the child(ren) rejects their father (because of this abuse) it is “unwarranted” and actually “the mother **alienating** the child(ren) from the father”. This is the beginning of the **Parental Alienation Syndrome** phenomenon.

<https://www.highconflicteducationandresources.com/parental-alienation>

Gardner later self published a book explaining that sexual interaction by a father directed towards his children was “acceptable and normal”.

- *“Older children may be helped to appreciate that sexual encounters between an adult and a child are not universally considered to be a reprehensible act. The child might be told about other societies in which such behavior was and is considered normal. The child might be helped to appreciate the wisdom of Shakeshpere’s Hamlet, who said. “Nothing’s either good or bad, but thinking makes it so.” In such discussions the child has to be helped to appreciate that we have in our society an exaggeratedly punitive and moralistic attitude about adult-child sexual encounters”*

Gardner, Richard A., True and False Accusations of Child Sex Abuse (1992), pp.549

- *“It is of interest that of all the ancient peoples it may very well be that the Jews were the only ones who were punitive toward pedophiles.” Many child advocates are “charlatans, and/or psychopaths, and/or incompetents.”*

Gardner, Richard A., True and False Accusations of Child Sex Abuse (1992), pp.46-47

Dr. Gardner was nationally denounced and discredited, and in 2003 took his own life.

Early 2000 Richard Warshak and Randy Rand created Family Bridges Parental Alienation Program by using the rejected pedophilia-friendly doctrine of Richard Gardner. Richard Warshak and Randy Rand would combine a youth transport service with Gardner’s concept of PAS and develop a radical, highly expensive, and dangerous “**reunification program**” called **Family Bridges** to “treat alienated children” with the invented pediatric mental illness called Parental Alienation Syndrome. Family Bridges was marketed to Family Courts, mental health professionals, attorneys, mediators, CPS, and court appointed guardian ad litem. Court appointed professionals utilize Rands Family Bridges CLE training “Building Family Bridges”, (link below) which have strict requirements for guaranteed custody outcomes by isolating the safe parent from their child. Family Bridges

D. DOMESTIC ABUSE BY PROXY

Significant peer reviewed research and education in early childhood trauma, has uncovered a significant pattern affecting families and children’s long term mental health and well being.

“Domestic Abuse by Proxy” (or Post Separation Abuse) is what occurs when the abuser can no longer physically access their victim and so they turn their unhealthy attention to the children.

“Post separation abuse” continues to escalate and often, far surpasses the DV that victims are subjected to while under the same roof as their abuser. After the relationship ends, the perpetrator sets their sights on the child(ren) to exert control and, to terrorize the healthy parent. This includes allegations of Parental Alienation against the safe parent.

“Alienation Allegations

- Child favors the safe parent and rejects the abusive parent leading to false allegations of alienation
- Parental alienation claims lodged against the safe parent as a legal strategy to cast doubt on their credibility
- Valid claims of abuse labeled as alienation by the abusive parent as a defensive tactic”

Post-separation abuse does not just affect the victim, it has both immediate and long-lasting effects on children resulting in high Adverse Childhood Experiences (ACEs).

**ACE's, a term used to describe any traumatic event during childhood such as divorce, violence, emotional abuse, neglect, substance abuse or even an environment that undermines a child's sense of bonding or stability. *The ACE Study (The Center for Disease Control and Kaiser Permanente) should be the courtroom bible for judges and other family court professionals who are tasked with the responsibility of acting in the best interest of children.*

CONCLUSION

Parental Alienation has been nationally **discredited** and **denounced** as a clinical diagnosis. Even though PA and PAS are unrecognized and unscientific, these false assessments, costing the state between \$5,000 - \$24,000 per evaluation, have resulted in the restriction and termination of parental rights in MT Family Courts. Once accusations of PAS are offered by professionals, the MT courts will often create a parenting plan that requires the safe parent to only see their children in a supervised visit situation or restrict any and all contact with the child.

Montana Has Been Compromised

To put this into context and give just a glimpse into how far and long these issues have affected our state: From 2000 to current we have had 38 Supreme Court cases heard on direct appeal centered around parental alienation claims. Keep in mind this does NOT account for denied appeals or any district court cases they were never appealed to begin with. The concept of Parental Alienation infiltrated Montana over 20 years ago through Gallatin County.

Based on court records, emails, and affidavits of those involved it was a company from California owned by Randy Rand, titled Family Bridges that is credited with the initial contamination in our state of the scientifically denounced theory of parental alienation. Following legal sanctions against Randy Rand and Family Bridges in California (R Rand sanctions) Family Bridges began identifying other states to operate in that had loosely worded legislation that would allow them to continue their business of legally abusing children under court orders. Montana was at the top of their list. Bozeman provided a safe haven for Rand's Family Bridges program and allowed a thriving cottage industry of illegitimate (Building Family Bridges CLE trained) guardian ad litem's (GALs), mental health professionals, and attorneys in the area who have a vested financial interest in funneling children into dangerous programs for "treatment" of Parental Alienation. Bozeman Montana is considered nationally to be a "sanctuary city" for abusers.

Public Alert Gallatin County

https://docs.google.com/file/d/1P5xOHZ1vPJbDgzFXpf6o-JPlwFGoghZ8/edit?usp=docslist_api&filetype=msword As a result of Family Bridges efforts mental health professionals across our state have adopted the Family Bridges model. (PAS) and (ADT) are being diagnosed and alleged by MT mental health professionals, CFS staff, and accepted as scientific evidence by the courts across the state. This has created significant systemic issues in state departments and authorities.

MT Family Court Awareness Project has compiled a list of accredited citations, globally to locally, to help support and educate our leaders on the corrosive and traumatic use of parental alienation allegations in our state. Below you will find links to findings, laws, legal opinions, studies, and statements of professionals and legal authorities worldwide.

Global Citations denouncing Parental Alienation:

[World Health Organization](#)

[UN Commission on the Status of Women](#)

[UN Human Rights Council](#)

[Statement of Global Action for Research Integrity of Parental Alienation](#)

[European Association of Psychotherapy](#)

Federal Citations denouncing Parental Alienation therapy and reunification camps:

[Violence Against Women Reauthorization Act of 2022](#) (section 1504) with Kayden's law

[US Department of Justice](#)

National media Publications:

[Psychology Today](#)

[NBC](#)

[CBS](#)

[Washington Post](#)

[Seattle Times](#)

[Forbes](#)

[NBC Bay Area](#)

National Organizations Citations denouncing Parental Alienation:

[Danielle Pollack](#) - this is a great resource for other links on PA and legislation

[Journal of Child Custody \(pdf\)](#)

[National Family Violence Law Center](#)

[Michigan Journal of Gender & Law](#)

[University of Massachusetts Law Review](#)

[American Professional Society on Child Abuse](#)

[Journal of the American Academy of Matrimonial Lawyers](#)

[National Council of Juvenile and Family Court Judge pg 12 -13 \(pdf\)](#)

[Santa Clara University School of Law](#)

[The Leadership Council on Child Abuse and Interpersonal Violence](#)

Legislation passed where child safety is first priority in custody cases:

[Pennsylvania](#)

[Connecticut](#) passed in 2021

[Colorado](#) passed in 2021

[New York](#) waiting for Governor's signature 2022

California Piqui's Law

National Attorney Citations:

American Bar Association

Joan Meier on Child Custody Outcomes with PA cases

Jean Mercer, Professor of Psychology (book)

Barry Goldstein on Alienation Distraction Techniques

Case Law on PA admissibility

<http://www.leadershipcouncil.org/1/pas/judges.html>

<https://libraryguides.law.pace.edu/c.php?g=907824&p=6632598>

National Mental Health Professionals Citations denouncing:

Association of Family and Conciliation Courts(pdf)

American Psychological Association

California Board of Psychology sanctions

Oregon disciplinary action

MT Judges orders and court proceedings regarding PA:

Judicial Training Manual Spring 2021(pdf)

Harris orders/transcripts (pdf)

Daytons transcripts(pdf)

MT Attorneys citations:

Jody Wilson, Esq. (pdf) (legislative testimony)

MT Mental Health Professionals citations:

Rochelle Beley, LCPC (pdf)

Sarah Monich, LCSW (legislative testimony) (pdf)

Jesse Harris, LCSW (pdf)

Julie W., LCSW (PDF)

CFHHS Interim Committee 6/28/22 starting at 8:54 time

CFHHS Interim Committee 5/13/22 starting at 11:30:30

Fundamental rights violated by PA therapeutic tactics:

US Constitution 14th Amendment

US Supreme Court rulings regarding parenting as a protected fundamental right:

- **Moore v. East Cleveland - 431 U.S. 494, 97 S. Ct. 1932, 52 L. Ed. 2d 531, 1977**
U.S. LEXIS 1: The Due Process Clause of the Fourteenth Amendment protect the right of a family to live as a unit.
- **Smith v. Organization of foster families, 431US816 (1977)**: "The liberty interest in family privacy has its source and its contours are ordinarily to be

sought, not in state law, but in intrinsic human rights, as they have been understood in this nation's history and tradition.”

- **Quilloin v. Walcott, 434US246 (1978):** “We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected. We have little doubt that the due process clause would be offended if a state were to attempt to force the breakup of a natural family over the objections of the parents and their children without some showing of unfitness, and for the sole reason that to do so was thought to be in the children's best interest.”
- **Parham v. J.R., 442US584 (1979):** “The laws concept of the family rests upon a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions. More importantly, historically it is recognized that the natural bonds of affection lead parents to act in the best interest of their child. The status notion that governmental power should supersede parental authority in all cases simply because some parents abuse and neglect children is repugnant to American tradition. Simply because the decision of a parent is not agreeable to a child or because it involves risks does not automatically transfer the power to make that decision from the parents to some agency or officer of the state”
- **Santosky v. Kramer, 455US745 (1982):** “The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the state. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. Until the state proves parental unfitness, the child and his parents share a vital interest in preventing erroneous termination of their natural relationship.”
- **Reno v. Flores, 507US 292 (1993):** “‘The best interest of the child’, (is) a venerable phrase familiar from divorce proceedings is a proper and feasible criterion for making the decision as to which of two parents will be accorded custody, but it is not traditionally the sole criterion, much less the sole constitutional criterion for other less narrowly channeled judgements involving children where their interests conflict in varying ways with the interests of others. The best interest of the child is not the legal standard that governs parent's or guardian's exercise of their custody, so long as certain minimal requirements of child care are met. The interest of the child may be subordinated to interests of other children, or indeed to the interests of the parents or guardians themselves.”
- **Washington v. Glucksberg, 521 U.S. 702 (1997)**, that the Constitution, and specifically the Due Process Clause of the Fourteenth Amendment, protects the fundamental right of parents to direct the care, upbringing, and education of their children.
- **Troxel v. Granville, 530US57 (2000):** “The liberty interest at issue in this case, the interests of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this court. In

light of this extensive precedent, it can not now be doubted that the due process clause of the 14th amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children. The problem here is not that the Washington superior court intervened, but that when it did so, it gave no special weight at all to Granville's determination of her daughters best interests; more importantly, it appears that the superior court applied exactly the opposite presumption. The due process clause does not permit a state to infringe on the fundamental right of parents to make child rearing decisions simply because a state judge believes that a 'better decision' could be made."

Federal Ruling on evidence standard to restrict or terminate parental rights:

- **JAMIE KIRKPATRICK V. COUNTY OF WASHOE, No. 12-15080 (9th Cir. 2016):** The en banc court reversed the district court's summary judgment and remanded on the daughter's claim against Washoe County because plaintiff presented sufficient evidence to raise a genuine issue of material fact regarding whether the County maintained a policy of unconstitutionally seizing children in non-exigent circumstances.
- Daubert Frye Doctrine, admissibility of expert witnesses based on scientific evidence.
- Fruit of the Poisonous Tree Doctrine, A doctrine that extends the exclusionary rule to make evidence inadmissible in court if it was derived from evidence that was illegally obtained.

MT Constitution:

ARTICLE II. DECLARATION OF RIGHTS

Part II. DECLARATION OF RIGHTS

Inalienable Rights

Individual Dignity

Right Of Participation

Rights Of Persons Not Adults

Due Process Of Law

MT Legislated law protecting fundamental rights:

MCA 40-4-227 Rights of Parents & Children

MCA 40-4-212 Best Interest of the Child

- MCA, including criminal code, violated by PA "experts" and therapy tactics::
 - MCA 45-5-634 Parental Interference
 - MCA 45-5-622(4) Endangering the Welfare of Children
 - MCA 45-7-101(l)(a)(b)(c) Bribery in Official Matters
 - MCA 45-7-102(a)(i)(iv)(b) Threats and improper influence in official matters
 - MCA 45-7-203(1)(a)(b)(c) Unsworn falsification to authorities
 - MCA 45-7-204(1) False Alarms to State Agencies
 - MCA 45-7-206(1)(a)(b)(c) Tampering With Witnesses

MCA.45-7-209(1) Impersonation of a Public Servant

ARMs violated by mental health professionals engaging in this cottage industry:

ARM 24.219.1209(10)

ARM 24.219.1209(12)

ARM 24.219.1211(4)

ARM 24.219.1211(xi)

ARM 24.219.1211(xi)(j).

ARM 24.219.301(12)

ARM 24.219.2301

STATE OF MONTANA



Governor's Proclamation



WHEREAS, the family court system should prioritize child safety and act in the best interest of children; and

WHEREAS, Montana honors children who have been injured or tragically lost their lives after a custody court failed to appropriately prioritize child safety; and

WHEREAS, the National Family Court Awareness Month Committee, Montana Family Court Awareness Project, and Montana Child Protection Alliance aim to support positive change in the family court system and promote the importance of education and training on domestic violence, childhood trauma, and post-separation abuse for professionals in the family court system;

NOW, THEREFORE, I, Greg Gianforte, Governor of the State of Montana, do hereby proclaim November 2022

Family Court Awareness Month

in Montana to support the family court system acting in the best interest of children.




GREG GIANFORTE
Governor

Burke, Trudy

From: leg-noreply@mt.gov
Sent: Thursday, January 12, 2023 2:11 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-12-23 14:10
Attachments: Testimony in Favor Senate Bill 115 - Williams_Lindsay.pdf

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Lindsay Hill-Williams
Email: williamslindsayggt@yahoo.com
Phone: (406) 321-1383
City, State: Denton, MT
Written Statement: Not Provided
Files: Testimony in Favor Senate Bill 115 - Williams_Lindsay.pdf Testify via Zoom: Yes Zoom Method: Phone

Lindsay M. Hill-Williams, MS CCC-SLP
PO Box 458, Denton, MT 59430
RE: 2023 Legislative Session SENATE BILL NO. 115
TO: Senator Lenz, Committee Members and all citizens of Montana

I am submitting testimony in favor of Senate Bill No. 115. My name is Lindsay Hill-Williams. I am a mother of three children, two boys and a girl. My ex-husband and I worked to build a business together in agriculture. My children went everywhere with me while I worked, so I was basically a working stay at home mom. My ex-husband and I divorced in 2017. Because it was his family's place, and the divorce was not amicable, I chose to relocate. While I was working on obtaining my new degree, I worked as a clerk for the court. I am currently a licensed speech pathologist working with children with special needs in the school system.

Through the process of our divorce, and disagreements about custody, myself and my children have been subjected to psychological abuse from a Montana mental health provider. This abuse was perpetrated through a misuse of the term "psychological abuse." This provider, who is not a licensed psychiatrist or psychologist, deemed that the children's lack of adjustment and their feelings about custody matters were the sole responsibility of myself. She went so far as to diagnose the children with mental disorders, presented to the court the children were in imminent danger due to their psychological disorders, and recommended removal of the children's parenting time with myself as necessary for the children's safety in order to attempt to resolve a diagnosis that has been widely discredited and not listed in the DSM. She used allegations of "psychological abuse" to justify my children having no contact/limited contact with me for 22 months and required supervised parenting time. Even with positive reports from her chosen supervisors, she continued to use "psychological abuse" allegations to recommend limited parenting time.

In our situation, the judge has allowed this mental health professional to act as an expert witness and place what were healthy functioning children in a situation that has created increased psychological distress. She also used her determination of "psychical abuse" to prevent the children being heard by the court, even in chambers. My oldest son aged out without ever being heard by anyone in the court system. The children and I were not allowed to discuss the children's psychological distress without threat of additional restriction of their parenting time with me. My now adult child is just now explaining to me how he suffered and how he feels being placed in this situation has negatively impacted his life possibly forever.

The mental health provider I speak of, a self-proclaimed expert who testified that her expertise was based on an internet course that lacked any form of recognized professional certification used the phrase "psychological abuse" and "imminent danger" to circumvent the involvement of Child Protective Services. Of note, Child Protective Services was contacted by that mental provider and deemed the children were not at any risk. However, the court still allowed her to make recommendations about the treatment plan created with vague unattainable goals and recommendations which three years later are still being used to severely limit parenting time without any referral to Child Protective Services or acknowledgement of Child Protective Services reports and the child custody evaluator report deeming the children were not in danger.

The harm that has been allowed under the vagueness of the term "psychological abuse" has caused damage to my relationship with the children, the children's ability to trust anyone let alone mental health professionals, and may have irreversibly harmed their relationship with their father.

Burke, Trudy

From: leg-noreply@mt.gov
Sent: Thursday, January 12, 2023 1:18 PM
To: LEG Applications Email Backup; LEG Cmte-PHStestimony
Subject: Public Comment for Bill SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 01-12-23 13:18

Details:

Bill: SB-115: Revise definition of psychological abuse or neglect in CPS cases 2023-01-13 03:00 PM - (S) Public Health, Welfare and Safety

Position: Proponent

Representing an Entity/Another Person: No

Organization: N/A

Name: Jacob Handy

Email: prazin@hotmail.com

Phone: (406) 253-1381

City, State: Eureka,Mt

Written Statement: Zilah Handy and Elliot Handy to give testimony also

Files:

Testify via Zoom: Yes

Zoom Method: Phone

VISITORS REGISTER

MONTANA SENATE

PUBLIC HEALTH WELFARE AND SAFETY

January 13, 2023

HB 39 Rep. Amy Regier

Eliminate county administration fee for youth residential services.

NAME	REPRESENTING	Support	Oppose	Informat'l
Erica Johnston	DPHHS	✓		

*Please leave prepared testimony with Committee Secretary. Witness Statement
Forms are available if you prefer to submit written testimony.*

VISITORS REGISTER

MONTANA SENATE

PUBLIC HEALTH WELFARE AND SAFETY

January 13, 2023

SB 113 Sen. Lenz

Make permanent certain notification requirements in CPS cases.

NAME	REPRESENTING	Support	Oppose	Informat'l
Nikie Grossberg	CFSD	✓		
Matt Furlong	MCPA	✓		
Dave Kesler [#]	self	✓		
Dense John	MCPA	✓		
Nanette Gilbertson	MCAA	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement
Forms are available if you prefer to submit written testimony.

VISITORS REGISTER
MONTANA SENATE
PUBLIC HEALTH WELFARE AND SAFETY
January 13, 2023 **SB 115 Sen. Lenz**

Revise definition of psychological abuse or neglect in CPS cases.

NAME	REPRESENTING	Support	Oppose	Informat'l
Nick Drossberg	CFSD		✓	
Dave Kesler III	Self	X		
Matt Furlong	mcpa	X		
Deise Jones	mcpa	✓		
Nanette Gilbertson	MCAA		✓	

Please leave prepared testimony with Committee Secretary. Witness Statement
Forms are available if you prefer to submit written testimony.

Bill	Name	Position	Location	Email	Affiliation
SB-115	Lindsay Hill-Williams	Proponent	Denton, MT	[REDACTED]	N/A
	Jacob Handy	Proponent	Eureka, MT	[REDACTED]	N/A
	Kyla Hailstone	Proponent	Roundup, MT	[REDACTED]	MT Family Court Awareness Project
	Elizabeth Peterson	Proponent	Bozeman MT	[REDACTED]	N/A
	Stephen Underwood	Opponent	Great Falls, MT	[REDACTED]	N/A
	Nathan Stahley	Opponent	Missoula, MT	[REDACTED]	National Association of Social Workers, Montana
	Thomas Hoffman, MD	Opponent	Butte, MT	[REDACTED]	Shodair Children's Hospital / MPA
	Lauren Wilson MD	Opponent	Missoula, MT	[REDACTED]	Montana Chapter, American Academy of Pediatrics

Jan. 13, 2023
Public Health
Zoom Witness List

MINUTES
MONTANA HOUSE OF REPRESENTATIVES
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (H) HUMAN SERVICES

Call to Order: Chair Jennifer Carlson-R, on March 16, 2023 at 3:01 PM, in 152

ROLL CALL

Members Present: Rep. Jennifer Carlson, Chair (R)
Rep. Alice Buckley, Vice Chair (D)
Rep. Lola Sheldon-Galloway, Vice Chair (R)
Rep. Edward Buttrey (R)
Rep. Jodee Etchart (R)
Rep. Gregory Frazer (R)
Rep. SJ Howell (D)
Rep. Ron Marshall (R)
Rep. Nelly Nicol (R)
Rep. George Nikolakakos (R)
Rep. Greg Oblander (R)
Rep. Wayne Rusk (R)
Rep. Laura Smith (D)
Rep. Ed Stafman (D)
Rep. Michael Yakawich (R)
Rep. Zooey Zephyr (D)

Members Excused: Rep. Kim Abbott (D)
Rep. Donavon Hawk (D)
Rep. Caleb Hinkle (R)
Rep. Amy Regier (R)
Rep. Tom Welch (R)

Staff Present: Milly Allen, Research Analyst
Katie Reeves, Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

SB 113 03/13/2023

SB 116 03/13/2023

Executive Action:

SB 4 BE CONCURRED IN
SB 36 BE CONCURRED IN
SB 87 TO TABLE
SB 163 BE CONCURRED IN

HEARING ON SB 113 - Make permanent certain notification requirements in CPS cases

Opening Statement:

15:02:58 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 113, Make permanent certain notification requirements in CPS cases.

Proponent Testimony:

15:06:04 Nikki Grossberg, Division Administrator, DPHHS

15:06:42 Matt Furlong, Montana Child Protection Alliance

15:08:04 Denise Johnson, Montana Child Protection Alliance

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

None

Closing Statement:

15:08:51 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 113.

HEARING ON SB 116 - Revise confidentiality provisions related to child protective services cases

Opening Statement:

15:09:16 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 116, Revise confidentiality provisions related to child protective services cases.

Discussion:

15:12:39 Rep. Caleb Hinkle joined the meeting.

15:14:56 Rep. Amy Regier joined the meeting.

Proponent Testimony:

15:16:07 Nikki Grossberg, Division Administrator, DPHHS

15:16:58 Matt Furlong, Montana Child Protection Alliance

15:18:39 Denise Johnson, Montana Child Protection Alliance

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

15:22:46 Rep. Michael Yakawich

15:26:45 Sen. Dennis Lenz-R

15:30:09 Rep. Laura Smith

15:30:34 Nikki Grossberg

15:31:12 Rep. SJ Howell

15:32:16 Nikki Grossberg

15:35:17 Rep. Greg Oblander

15:35:56 Sen. Dennis Lenz-R

15:37:29 Rep. Kim Abbott joined the meeting.

15:37:54 Nikki Grossberg

15:39:05 Vice Chair Lola Sheldon-Galloway

15:39:51 Sen. Dennis Lenz-R

15:44:56 Nikki Grossberg

15:48:32 Rep. Michael Yakawich

15:48:59 Nikki Grossberg

15:49:45 Chair Jennifer Carlson

15:50:24 Nikki Grossberg

Closing Statement:

15:51:11 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 116.

Discussion:

15:52:01 Rep. Tom Welch joined the meeting.

15:55:40 **Recessed**

16:17:59 Rep. Regier has arrived

16:18:19 Rep. Nicol has left

16:18:54 **Reconvened**

16:19:48 Rep. Etchart has left

EXECUTIVE ACTION ON SB 4 - Require sharing of reports of abuse and neglect at Montana State Hospital

16:21:38 **Motion:** Rep. Lola Sheldon-Galloway moved that **SB 4 BE CONCURRED IN.**

16:21:38 **Vote:** Motion carried unanimously by voice vote.

16:21:38 **Carrier Assigned:** Rep. Jennifer Carlson

EXECUTIVE ACTION ON SB 36 - Eliminate certain DPHHS statutorily required reports

16:22:35 **Motion:** Rep. Lola Sheldon-Galloway moved that **SB 36 BE CONCURRED IN.**

16:22:35 **Vote:** Motion carried unanimously by voice vote.

16:22:35 **Carrier Assigned:** Rep. Greg Oblander

EXECUTIVE ACTION ON SB 87 - Eliminate board of public assistance

16:23:57 **Motion:** Rep. Lola Sheldon-Galloway moved that **SB 87 BE CONCURRED IN.**

16:25:01 **Motion:** Rep. Edward Buttrey moved that **SB 87 TO TABLE.**

16:25:01 **Vote:** Motion carried 13 - 8 by roll call vote with Rep. Etchart, Rep. Hinkle, Rep. Nicol, Rep. Oblander, Rep. Regier, Rep. Rusk, Rep. Sheldon-Galloway, Rep. Yakawich, voting no.
Rep. Etchart, Rep. Nicol, By Proxy

EXECUTIVE ACTION ON SB 163 - Establish volunteer program in child protective services

16:26:46 **Motion:** Rep. Lola Sheldon-Galloway moved that **SB 163 BE CONCURRED IN.**

16:26:46 **Vote:** Motion carried 14 - 7 by roll call vote with Rep. Abbott, Rep. Buckley, Rep. Hawk, Rep. Howell, Rep. Smith, Rep. Stafman, Rep. Zephyr, voting no.
Rep. Abbott, Rep. Hawk, By Proxy

16:26:46 **Carrier Assigned:** Rep. Michael Yakawich

ADJOURNMENT

Adjournment: 16:30:12

Katie Reeves, Secretary

Additional Documents: [EXHIBIT\(230316HUHaad\)](#)



2023 Session

Additional House Documents

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxies signed in ink
- Visitor's sign-in sheet.
- Informational Item's
- Witness Statements if any,
- Zoom/Internet Testimony Information & index
- Any other type of documents such as:
 - @ Petitions, {if any} Emails, all documents given to Committee Secretary before & after meeting.
- Public Testimony documents may or may not be scanned, they will be on file at the Montana Historical Society.
- Disclaimer: within the online minutes document you will see vacate spaces within the document. The LAWS II system creates these blank areas they are not loss of information.

The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives,
225 N. Roberts, Helena, MT 59620-1201
E-Document Specialist Susie Hamilton

BUSINESS REPORT
MONTANA HOUSE
REGULAR
(H) Human Services

Date: 03/16/2023

Time: 3:00 PM

Place: Capitol

Room: 152

BILLS and RESOLUTIONS HEARD:

SB 113 Make permanent certain notification requirements in CPS cases - Sen. Dennis Lenz

SB 116 Revise confidentiality provisions related to child protective services cases - Sen. Dennis Lenz

EXECUTIVE ACTION TAKEN:

SB 163:

SB 163 Be Concurred In

SB 36:

SB 36 Be Concurred In

SB 4:

SB 4 Be Concurred In

SB 87:

SB 87 To Table

Comments:



Rep. Jennifer Carlson-R, Chair

House

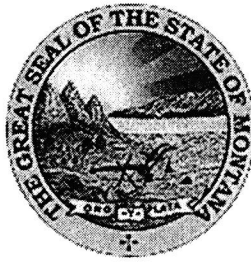
Roll Call

(H) Human Services

DATE: 03/16/2023

TIME: 3:00 PM

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/EXCUSED</u>
Sheldon-Galloway, Lola	X	
Buckley, Alice	X	
Regier, Amy		X
Etchart, Jodee	X	
Hawk, Donavon		X
Hinkle, Caleb		X
Nikolakakos, George	X	
Marshall, Ron	X	
Smith, Laura	X	
Welch, Tom		X
Stafman, Ed	X	
Abbott, Kim		X
Zephyr, Zooey	X	
Frazer, Gregory	X	
Howell, SJ	X	
Yakawich, Michael	X	
Nicol, Nelly	X	
Rusk, Wayne	X	
Oblander, Greg	X	
Buttrey, Edward	X	
Carlson, Jennifer	X	



House Standing Committee Report

March 16, 2023

page 1 of 1

To the Speaker,

We, your committee on **(H) Human Services** recommend that **Senate Bill 4** (first reading copy – white) **Be Concurred In.**

Carrier: Rep. Carlson

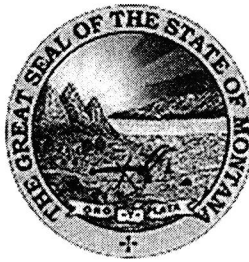
Signed: J Carlson
Rep. Jennifer Carlson-R, Chair

-End-

Committee Vote:

Yes 21, No 0

HR 3-17
ET Carlson



House Standing Committee Report

March 16, 2023

page 1 of 1

To the Speaker,

We, your committee on **(H) Human Services** recommend that **Senate Bill 36** (first reading copy – white) **Be Concurred In.**

Carrier: Rep. Oblander

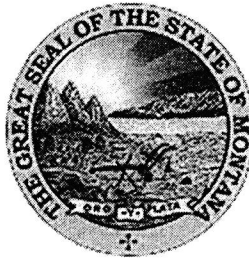
Signed: J Carlson
Rep. Jennifer Carlson-R, Chair

-End-

Committee Vote:

Yes 21, No 0

JP 3-17
e 7/15 am



House Standing Committee Report

March 16, 2023

page 1 of 1

To the Speaker,

We, your committee on **(H) Human Services** recommend that **Senate Bill 163** (first reading copy – white) **Be Concurred In.**

Carrier: Rep. Yakawich

Signed: _____

A handwritten signature in cursive script, appearing to read "J Carlson", written over a horizontal line.

Rep. Jennifer Carlson-R, Chair

-End-

Committee Vote:

Yes 14, No 7

HB 347
@ 7:17am

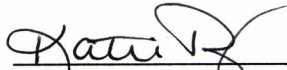
BILL TABLED NOTICE

House (H) Human Services

The House (H) Human Services TABLED

SB87-Eliminate board of public assistance- Sen. Tom McGillvray

by motion, on Thursday March 16, 2023, (PLEASE USE THIS ACTION DATE IN LAWS BILL STATUS).



(For the Committee)



(For the Chief Clerk of the House)

 / 

(time) (date)

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 16, 2023
VOTE TABULATION - SB 4

Rep. Sheldon-Galloway made a Motion that SB 4 Be Concurred In
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon; by proxy
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
Y	Smith, Laura
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly; by proxy
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 16, 2023
VOTE TABULATION - SB 36

Rep. Sheldon-Galloway made a Motion that SB 36 Be Concurred In
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon; by proxy
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
Y	Smith, Laura
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly; by proxy
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 16, 2023
VOTE TABULATION - SB 87

Rep. Buttrey made a Motion that SB 87 To Table
YEAS – 13 NAYS - 8

N	Sheldon-Galloway, Lola
Y	Buckley, Alice
N	Regier, Amy
N	Etchart, Jodee; by proxy
Y	Hawk, Donavon; by proxy
N	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
Y	Smith, Laura
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory
Y	Howell, SJ
N	Yakawich, Michael
N	Nicol, Nelly; by proxy
N	Rusk, Wayne
N	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 16, 2023
VOTE TABULATION - SB 163

Rep. Sheldon-Galloway made a Motion that SB 163 Be Concurred In
YEAS – 14 NAYS - 7

Y	Sheldon-Galloway, Lola
N	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
N	Hawk, Donavon; by proxy
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
N	Smith, Laura
Y	Welch, Tom
N	Stafman, Ed
N	Abbott, Kim; by proxy
N	Zephyr, Zooey
Y	Frazer, Gregory
N	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly; by proxy
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 68TH LEGISLATIVE SESSION

I request to be excused from the House Human Services Committee.

I desire to leave my proxy vote with Rep. Oblander.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
SB 4		Y	
SB 81	Table 2 (Tabled)		
SB 163		Y	
SB 36		Y	

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. _____
for any amendments proposed on this date.

Rep. [Signature]
(Signature)

Jade Eckhart
(Print Name)

3-16-2023
(Meeting Date)



The Big Sky Country

648
113
1

MONTANA HOUSE OF REPRESENTATIVES
AUTHORIZED
COMMITTEE PROXY
68TH LEGISLATIVE SESSION

Nicol

I request to be excused from the HHS Committee.

I desire to leave my proxy vote with Rep. Sheldon Gallaway / Heggie / Marshall.

PLEASE USE PEN

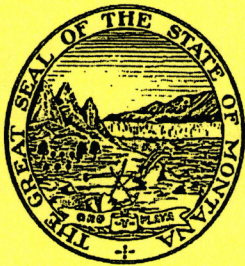
BILL	MOTION (Include AMENDMENT #)	AYE	NO	BILL	MOTION (Include AMENDMENT #)	AYE	NO
SB 4	state hospital	X					
SB 36		X					
SB 87			*				
	13/8 tabled		X				
SB 163	14/7	X					

I authorize my vote to be matched with that of Rep. _____
for any amendments proposed on this date.

Rep. Nelly Nicol
(Signature)

Nelly Nicol
(Print Name)

3-16-23
(Meeting Date)



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES
AUTHORIZED
COMMITTEE PROXY
68TH LEGISLATIVE SESSION

I request to be excused from the HHS Committee.

I desire to leave my proxy vote with Rep. Buckley.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
SB 4	do pass concur	X	
SB 36	do concur	X	
SB 80			
SB 87	TABLE	X	
SB 163	do concur	X	
SB 163	do concur		X

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. Buckley
for any amendments proposed on this date.

Rep. [Signature] Donavon Hawk 3-16-2023
(Signature) (Print Name) (Meeting Date)





MINUTES
MONTANA HOUSE OF REPRESENTATIVES
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON (H) HUMAN SERVICES

Call to Order: Chair Jennifer Carlson-R, on March 17, 2023 at 3:01 PM, in 152

ROLL CALL

Members Present: Rep. Jennifer Carlson, Chair (R)
Rep. Lola Sheldon-Galloway, Vice Chair (R)
Rep. Kim Abbott (D)
Rep. Edward Buttrey (R)
Rep. Gregory Frazer (R)
Rep. Donavon Hawk (D)
Rep. Caleb Hinkle (R)
Rep. SJ Howell (D)
Rep. Ron Marshall (R)
Rep. Nelly Nicol (R)
Rep. Amy Regier (R)
Rep. Wayne Rusk (R)
Rep. Ed Stafman (D)
Rep. Tom Welch (R)
Rep. Michael Yakawich (R)
Rep. Zooey Zephyr (D)

Members Excused: Rep. Alice Buckley (D)
Rep. Jodee Etchart (R)
Rep. George Nikolakakos (R)
Rep. Greg Oblander (R)
Rep. Laura Smith (D)

Staff Present: Milly Allen, Research Analyst
Katie Reeves, Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

SB 112 03/09/2023

SB 162 03/13/2023

Executive Action:

SB 113

SB 116

HB 648 DO PASS AS AMENDED

HEARING ON SB 112 - Revise pharmacist prescribing authority

Opening Statement:

15:08:21 Sen. Tom McGillvray (R), SD 23, opened the hearing on SB 112, Revise pharmacist prescribing authority.

Proponent Testimony:

15:15:39 Kendall Cotton, President, Frontier Institute

[EXHIBIT\(230317HUh1\)](#)

15:18:17 Tony King, Pharmacist

15:18:58 Rep. George Nikolakakos joined the meeting.

15:20:23 Daniel Stockton, Pharmacist Student

15:21:47 Stuart Doggett, Montana Pharmacy Association

15:23:38 Henry Kriegel, Americans for Prosperity

15:25:44 Cameron Cooper, American Pharmacy Student

15:27:11 Brad Griffin, President, American Retail Association

15:27:33 Matt Kuntz, Executive Director, NAMI Montana

15:28:36 Travis Schule, Pharmacist

15:32:14 Rebecca Kinnett, Pharmacist, Albertsons

15:32:40 Vice Chair Alice Buckley joined the meeting.

15:34:55 Kenneth Chatriand, Pharmacist

Opponent Testimony:

15:37:16 Jean Branscum, CEO, Montana Medical Association

[EXHIBIT\(230317HUh2\)](#)

[EXHIBIT\(230317HUHa3\)](#)

[EXHIBIT\(230317HUHa4\)](#)

15:41:22 Kim Longcake, Montana Academy of Pediatrics
15:44:52 Lynne Foss, Montana Academy of Pediatrics
15:46:52 Lauren Wilson, Montana Medical Association
15:49:23 Sarah Morgan, Montana Medical Association

Informational Witness Testimony:

15:51:22 Marcy Baugh, Dept. of Labor and Industry

Questions from Committee:

15:51:59 Rep. Ed Stafman
15:52:19 Jean Branscum
15:57:17 Rep. Ed Stafman
15:57:43 Sen. Tom McGillvray-R
15:58:11 Tony King
16:01:47 Rep. Edward Buttrey
16:02:08 Stuart Doggett
16:03:01 Kendall Cotton
16:05:43 Rep. Edward Buttrey
16:05:59 Tony King
16:07:43 Rep. Caleb Hinkle
16:08:01 Rebecca Kinnett
16:09:22 Tony King
16:11:03 Rep. Gregory Frazer left the meeting.
16:11:54 Kendall Cotton
16:13:47 Rep. Kim Abbott

16:15:55 Rep. Michael Yakawich

16:17:21 Rebecca Kinnett

16:18:48 Chair Jennifer Carlson

16:19:54 Jean Branscum

16:24:21 Tony King

16:25:24 Chair Jennifer Carlson

16:26:35 Rep. Greg Oblander joined the meeting.

16:27:20 Tony King

16:28:07 Kendall Cotton

16:29:38 Rep. Edward Buttrey

16:30:02 Tony King

16:31:04 Chair Jennifer Carlson

16:31:56 Tony King

16:32:34 Rep. Ed Stafman

16:32:56 Tony King

16:35:19 Rep. Ron Marshall

16:36:19 Kendall Cotton

16:37:48 Rebecca Kinnett

Closing Statement:

16:38:45 Sen. Tom McGillvray (R), SD 23, closed the hearing on SB 112.

HEARING ON SB 162 - Provide notice to foster parents in CPS cases

Opening Statement:

16:44:02 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 162, Provide notice to foster parents in CPS cases.

Proponent Testimony:

16:45:52 Erica Johnston, Executive Director, DPHHS

16:46:54 Denise Johnson, Montana Child Protection Alliance

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

16:47:44 Rep. Tom Welch

16:49:13 Sen. Dennis Lenz-R

Closing Statement:

16:50:11 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 162.

16:56:05 **Recessed**

17:19:42 **Reconvened**

EXECUTIVE ACTION ON SB 113 - Make permanent certain notification requirements in CPS cases

17:20:17 **Motion:** Vice Chair Lola Sheldon-Galloway moved that **SB 113 BE CONCURRED IN.**

11:00:29 **Vote:** Motion carried unanimously by voice vote.

17:20:17 **Carrier Assigned:** Rep. Greg Oblander

EXECUTIVE ACTION ON SB 116 - Revise confidentiality provisions related to child protective services cases

17:21:49 **Motion:** Vice Chair Lola Sheldon-Galloway moved that **SB 116 BE CONCURRED IN.**

17:22:04 **Motion:** Vice Chair Lola Sheldon-Galloway moved that **SB 116 BE AMENDED.**

11:00:29 **Vote:** Motion carried unanimously by voice vote.

17:23:37 **Motion:** Vice Chair Lola Sheldon-Galloway moved that **SB 116 BE CONCURRED IN AS AMENDED.**

11:00:29 **Vote:** Motion carried unanimously by voice vote.

17:23:37 **Carrier Assigned:** Rep. Lola Sheldon-Galloway

EXECUTIVE ACTION ON HB 648 - Provide for the best beginnings scholarship program

17:25:16 **Motion:** Vice Chair Lola Sheldon-Galloway moved that **HB 648 DO PASS.**

17:25:33 **Motion:** Vice Chair Alice Buckley moved that **HB 648 BE AMENDED.**

Discussion:

17:26:45 Chair Jennifer Carlson

17:27:15 Vice Chair Alice Buckley joined the meeting.

17:27:18 Vice Chair Alice Buckley

11:00:29 **Vote:** Motion carried unanimously by voice vote.

17:28:10 **Motion:** Vice Chair Alice Buckley moved that **HB 648 BE AMENDED.**

Discussion:

17:30:38 Chair Jennifer Carlson

17:30:57 Vice Chair Alice Buckley

17:31:38 Rep. SJ Howell

17:32:19 Rep. Edward Buttrey

17:32:46 Chair Jennifer Carlson

17:34:21 Vice Chair Alice Buckley

17:35:36 Rep. Edward Buttrey

17:35:45 Rep. Ron Marshall left the meeting.

11:00:29 **Vote:** Motion carried unanimously by voice vote.

17:36:54 **Motion:** Vice Chair Lola Sheldon-Galloway moved that **HB 648 DO PASS AS AMENDED.**

11:00:29 **Vote:** Motion carried 13 - 8 by roll call vote with Rep. Carlson, Rep. Etchart, Rep. Hinkle, Rep. Marshall, Rep. Nicol, Rep. Regier, Rep. Rusk, Rep. Sheldon-Galloway, voting no.
Rep. Etchart, Rep. Marshall, By Proxy

ADJOURNMENT

Adjournment: 17:41:58

Katie Reeves, Secretary

Additional Documents: [EXHIBIT\(230317HUUaad\)](#)



2023 Session

Additional House Documents

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxies signed in ink
- Visitor's sign-in sheet.
- Informational Item's
- Witness Statements if any,
- Zoom/Internet Testimony Information & index
- Any other type of documents such as:
 - @ Petitions, {if any} Emails, all documents given to Committee Secretary before & after meeting.
- Public Testimony documents may or may not be scanned, they will be on file at the Montana Historical Society.
- Disclaimer: within the online minutes document you will see vacate spaces within the document. The LAWS II system creates these blank areas they are not loss of information.

The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives,
225 N. Roberts, Helena, MT 59620-1201
E-Document Specialist Susie Hamilton

BUSINESS REPORT
MONTANA HOUSE
REGULAR
(H) Human Services

Date: 03/17/2023

Time: 3:00 PM

Place: Capitol

Room: 152

BILLS and RESOLUTIONS HEARD:

SB 112 Revise pharmacist prescribing authority - Sen. Tom McGillvray

SB 162 Provide notice to foster parents in CPS cases - Sen. Dennis Lenz

EXECUTIVE ACTION TAKEN:

HB 648:

HB 648 Do Pass as Amended

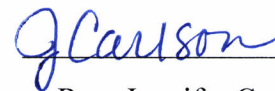
SB 113:

SB 113 Be Concurred In

SB 116:

SB 116 Be Concurred In as Amended

Comments:



Rep. Jennifer Carlson-R, Chair

House

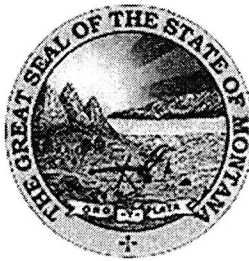
Roll Call

(H) Human Services

DATE: 03/17/2023

TIME: 3:00 PM

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/EXCUSED</u>
Sheldon-Galloway, Lola	X	
Buckley, Alice		X
Regier, Amy	X	
Etchart, Jodee		X
Hawk, Donavon	X	
Hinkle, Caleb	X	
Nikolakakos, George		X
Marshall, Ron	X	
Smith, Laura		X
Welch, Tom	X	
Stafman, Ed	X	
Abbott, Kim	X	
Zephyr, Zooey	X	
Frazer, Gregory	X	
Howell, SJ	X	
Yakawich, Michael	X	
Nicol, Nelly	X	
Rusk, Wayne	X	
Oblander, Greg		X
Buttrey, Edward	X	
Carlson, Jennifer	X	



House Standing Committee Report

March 17, 2023

page 1 of 1

To the Speaker,

We, your committee on **(H) Human Services** recommend that **Senate Bill 116** (first reading copy – white) **Be Concurred In as Amended**. The referenced amendment is SB0116.001.001.

Carrier: Rep. Sheldon-Galloway

Signed: J Carlson

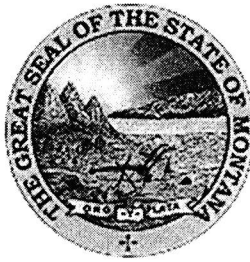
Rep. Jennifer Carlson-R, Chair

-End-

Committee Vote:

Yes 21, No 0

LA 320
C 8-55am



House Standing Committee Report

March 17, 2023

page 1 of 1

To the Speaker,

We, your committee on **(H) Human Services** recommend that **Senate Bill 113** (first reading copy – white) **Be Concurred In.**

Carrier: Rep. Oblander

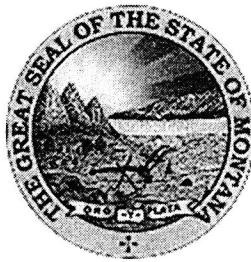
Signed: J Carlson
Rep. Jennifer Carlson-R, Chair

-End-

Committee Vote:

Yes 21, No 0

*3-20
e 8:55am*



House Standing Committee Report

March 17, 2023

page 1 of 1

To the Speaker,

We, your committee on **(H) Human Services** recommend that **House Bill 648** (first reading copy – white) **Do Pass as Amended**. The referenced amendment is HB0648.001.006.

Signed: J Carlson

Rep. Jennifer Carlson-R, Chair

-End-

Committee Vote:

Yes 13, No 8

8/3/20
C 8:55am

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 17, 2023
VOTE TABULATION - SB 116

Rep. Sheldon-Galloway made a Motion that SB0116.001.001 Be Amended
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
Y	Smith, Laura; by proxy
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory; by proxy
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 17, 2023
VOTE TABULATION - HB 648

Rep. Buckley made a Motion that HB0648.001.005 Be Amended
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
Y	Smith, Laura; by proxy
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory; by proxy
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 17, 2023
VOTE TABULATION - SB 116

Rep. Sheldon-Galloway made a Motion that SB 116 Be Concurred In as Amended
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
Y	Smith, Laura; by proxy
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory; by proxy
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 17, 2023
VOTE TABULATION - SB 113

Rep. Sheldon-Galloway made a Motion that SB 113 Be Concurred In
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron
Y	Smith, Laura; by proxy
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory; by proxy
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 17, 2023
VOTE TABULATION - HB 648

Rep. Buckley made a Motion that HB0648.001.001 Be Amended
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron; by proxy
Y	Smith, Laura; by proxy
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory; by proxy
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 17, 2023
VOTE TABULATION - HB 648

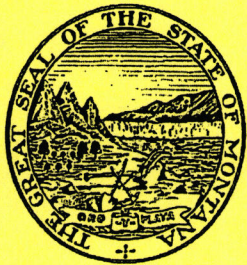
Rep. Buckley made a Motion that HB0648.001.005 Be Amended
YEAS – 21 NAYS - 0

Y	Sheldon-Galloway, Lola
Y	Buckley, Alice
Y	Regier, Amy
Y	Etchart, Jodee; by proxy
Y	Hawk, Donavon
Y	Hinkle, Caleb
Y	Nikolakakos, George
Y	Marshall, Ron; by proxy
Y	Smith, Laura; by proxy
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory; by proxy
Y	Howell, SJ
Y	Yakawich, Michael
Y	Nicol, Nelly
Y	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
Y	Carlson, Jennifer

HOUSE COMMITTEE ON (H) HUMAN SERVICES
March 17, 2023
VOTE TABULATION - HB 648

Rep. Sheldon-Galloway made a Motion that HB 648 Do Pass as Amended
YEAS – 13 NAYS - 8

N	Sheldon-Galloway, Lola
Y	Buckley, Alice
N	Regier, Amy
N	Etchart, Jodee; by proxy
Y	Hawk, Donavon
N	Hinkle, Caleb
Y	Nikolakakos, George
N	Marshall, Ron; by proxy
Y	Smith, Laura; by proxy
Y	Welch, Tom
Y	Stafman, Ed
Y	Abbott, Kim
Y	Zephyr, Zooey
Y	Frazer, Gregory; by proxy
Y	Howell, SJ
Y	Yakawich, Michael
N	Nicol, Nelly
N	Rusk, Wayne
Y	Oblander, Greg
Y	Buttrey, Edward
N	Carlson, Jennifer



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 68TH LEGISLATIVE SESSION

I request to be excused from the Health & Human Services Committee.

I desire to leave my proxy vote with Rep. Alice Buckley.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
SB 113	do pass concur	X	
SB 118	do pass concur	X	
SB 116	0116.001.001	X	
HB 648	648.1.1	X	
HB 648	as twice amended	X	

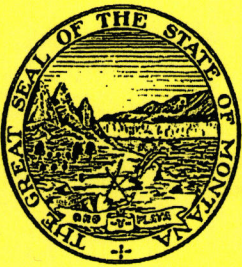
BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. Buckley
for any amendments proposed on this date.

Rep. Laura Smith
(Signature)

Laura Smith
(Print Name)

3-17-2023
(Meeting Date)



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES
AUTHORIZED
COMMITTEE PROXY
68TH LEGISLATIVE SESSION

I request to be excused from the Health + Human Services Committee.

I desire to leave my proxy vote with Rep. Buttrey.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
HB648	Do Pass as Amended ^{3x}	X	
1.1		X	
1.2			
1.3			
1.4			
1.5	amend HB648	X	
SB113	Do Concur	X	
SB116	Do Concur as amended	X	
1.1	Amend SB116	X	
SB162			

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. Buttrey
for any amendments proposed on this date.

Rep. Greg Frazer
(Signature)

Greg Frazer
(Print Name)

3/17/23
(Meeting Date)

Greg Frazer



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 68TH LEGISLATIVE SESSION

I request to be excused from the House Human Services Committee.

I desire to leave my proxy vote with Rep. Oblander.

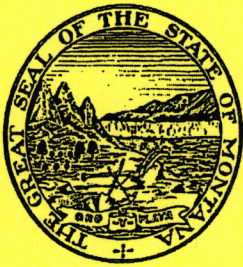
PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
HB 113		Y	
HB 116	Amend / Bill	Y	
HB 116	Amend / Amend	Y	
HB 648	Amend / Amend	Y	
HB 648	Amend Bill	Y	

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. _____
for any amendments proposed on this date.

Rep. [Signature] John Eckhart 3/17/23
(Signature) (Print Name) (Meeting Date)



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES
AUTHORIZED
COMMITTEE PROXY
68TH LEGISLATIVE SESSION

I request to be excused from the NHS Committee.

I desire to leave my proxy vote with Rep. NICOL / REGIER / GALLOWAY ^{Sheldon}

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
648			X

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. _____
for any amendments proposed on this date.

Rep. [Signature]
(Signature)

Rep MARSHALL
(Print Name)

3/17/23
(Meeting Date)





HUH - House Human Services Remote Testimony Request - 03/17/2023 @ 1500

Date	Bill Type	No.	Position	Requester Name	Location	Affiliation	Comments
03/17/2023	SB	112	Proponent	Rebecca Kinnett	Boise, ID	N/A	
03/17/2023	SB	112	Proponent	Travis Schule	Columbia Falls, MT	N/A	
03/17/2023	SB	112	Proponent	KENNETH CHATRIAND	Missoula, MT	N/A	
03/17/2023	SB	112	Opponent	Sarah Morgan	Bozeman, MT	Montana Medical Association	
03/17/2023	SB	112	Opponent	Lauren S Wilson	Missoula, MT	Montana Chapter, American Academy of Pediatrics	
03/17/2023	SB	112	Opponent	Lynne Foss	Bozeman, MT	N/A	

03/17/2023	SB	162	Proponent	Denise Johnson	BillingsMT	Montana Child Protection Alliance	
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MINUTES
MONTANA SENATE
68th LEGISLATURE - REGULAR SESSION
COMMITTEE ON CONFERENCE COMMITTEE ON SB 116

Call to Order: Chair Dennis Lenz-R, on April 25, 2023 at 12:03 PM, in 350

ROLL CALL

Members Present: Sen. Dennis Lenz, Chair (R)
Sen. Becky Beard (R)
Rep. Jennifer Carlson (R)
Sen. Jen Gross (D)
Rep. SJ Howell (D)
Rep. Nelly Nicol (R)

Staff Present: Madelyn Krezowski, Research Analyst
Jacelyn Sterling, Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

Executive Action:

SB 116 FURTHER AMEND THE
DISPUTED AMENDMENT

12:04:11 **Committee Discussion:** SB116

12:04:21 Chair Dennis Lenz

12:04:52 Madelyn Krezowski

12:05:05 Chair Dennis Lenz

12:06:53 Sen. Becky Beard

12:07:44 Rep. Jennifer Carlson

12:09:07 Chair Dennis Lenz

12:09:08 Bruce Spencer,

12:10:02 Chair Dennis Lenz

12:10:19 Rep. Jennifer Carlson

12:11:30 Chair Dennis Lenz

EXECUTIVE ACTION ON SB 116 - Revise confidentiality provisions related to child protective services cases

12:11:44 **Motion:** Rep. Jennifer Carlson moved that **SB 116 BE AMENDED.**

12:12:44 **Vote:** Motion carried unanimously by voice vote.

12:12:27 **Motion:** Chair Dennis Lenz moved that **SB 116 FURTHER AMEND THE DISPUTED AMENDMENT.**

Discussion:

12:12:38 Sen. Jen Gross

12:12:46 Chair Dennis Lenz

12:12:51 Sen. Jen Gross

12:13:27 **Vote:** Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 12:13:32

Jacelyn Sterling, Secretary

Additional Documents: [EXHIBIT\(230425CCSaad\)](#)



2023 Session

Additional Senate Documents

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxies signed in ink
- Visitor's sign-in sheet.
- Informational Item's
- Witness Statements if any,
- Zoom/Internet Testimony Information & index
- Any other type of documents such as:
@ Petitions, {if any} Emails, all documents given to
Committee Secretary before & after meeting.
- Public Testimony documents may or may not be scanned,
they will be on file at the Montana Historical Society.
- Disclaimer: within the online minutes document you will
see vacate spaces within the document. The LAWS II
system creates these blank areas they are not loss of
information.

The original exhibit/items are on file at the Montana Historical Society
and may be viewed there.

Montana Historical Society Archives,
225 N. Roberts, Helena, MT 59620-1201
E-Document Specialist Susie Hamilton

BUSINESS REPORT
MONTANA SENATE
REGULAR

Conference Committee on SB 116

Date: 04/25/2023

Time: 12:00 PM

Place: Capitol

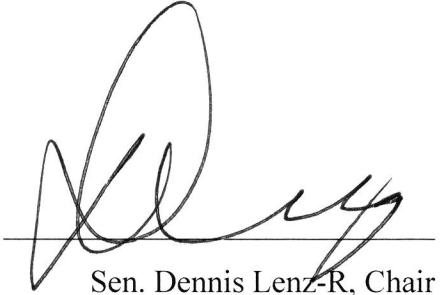
Room: 350

BILLS and RESOLUTIONS HEARD:

EXECUTIVE ACTION TAKEN:

SB 116 Further Amend the Disputed Amendment, Accepted as Amended

Comments:



Sen. Dennis Lenz-R, Chair

Senate

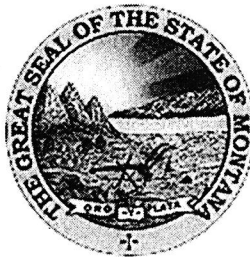
Roll Call

Conference Committee on SB 116

DATE: 04/25/2023

TIME: 12:00 PM

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/EXCUSED</u>
Lenz, Dennis	X	
Gross, Jen	X	
Beard, Becky	X	
Carlson, Jennifer	X	
Howell, SJ	X	
Nicol, Nelly	X	



CONFERENCE COMMITTEE

On House amendments to Senate Bill 116

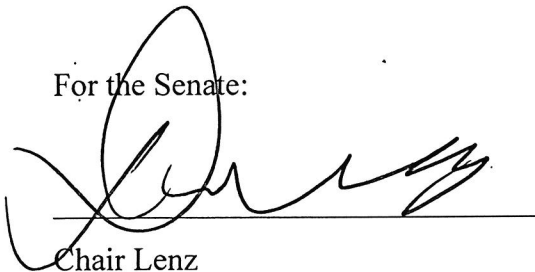
Report No. 001, April 25, 2023

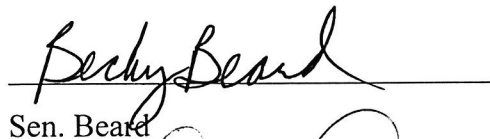
page 1 of 1

Mr. President and Mr. Speaker:

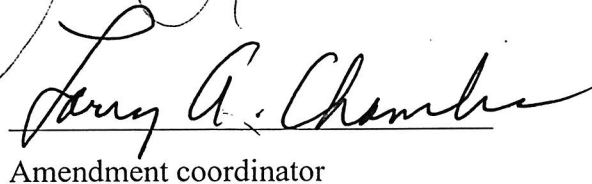
We, your Conference Committee met and considered House amendments to **Senate Bill 116** (reference copy-salmon) and recommended this Conference Committee be adopted.

For the Senate:

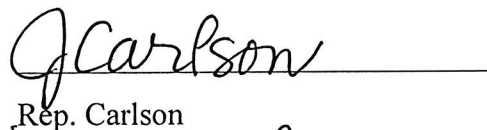

Chair Lenz

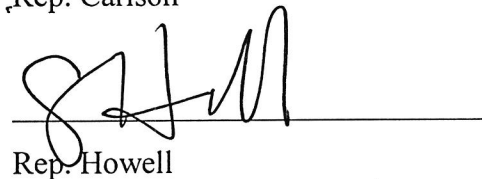

Sen. Beard


Sen. Gross


Amendment coordinator

For the House:


Rep. Carlson


Rep. Howell


Rep. Nicol

And, recommend that **Senate Bill 116** (reference copy-salmon) be **Further Amend the Disputed Amendment**.

ADOPT
REJECT

Amendment # Senate Bill 116001

Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB

116

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski, (406) 444-6857

SB0116.002.003

SENATE BILL NO. 116

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING THE DISCLOSURE OF CHILD ABUSE AND NEGLECT RECORDS; ~~REQUIRING THAT CASE RECORDS BE DISCLOSED WITHIN 10 DAYS OF RECEIVING A REQUEST UNLESS A COURT DETERMINES THAT DISCLOSURE IS DETRIMENTAL TO A CHILD OR OTHER PERSON WHO IS THE SUBJECT OF THE RECORDS; PROVIDING A PENALTY FOR FAILING TO DISCLOSE RECORDS WITHIN 10 DAYS OF A REQUEST; REVISING PROCEDURES FOR DISCLOSING CASE RECORDS AND RECORDS OF THE OFFICE OF THE CHILD AND FAMILY OMBUDSMAN TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; PROVIDING EXCEPTIONS TO CONFIDENTIALITY REQUIREMENTS FOR RECORDS DISCLOSED TO A MEMBER OF CONGRESS OR THE MONTANA LEGISLATURE; AMENDING SECTIONS 41-3-205 AND 41-3-1214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality -- disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) ~~(a)~~ Records, including case notes, correspondence, evaluations, videotapes, and interviews,

Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB

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68th Legislature 2023

Drafter: Madelyn Krezowski, (406) 444-6857

SB0116.002.003

1 unless otherwise protected by this section or unless disclosure of the records is determined ~~by a court~~ to be
2 detrimental to the child or harmful to another person who is a subject of information contained in the records,
3 ~~may must~~ MAY must, upon request, be disclosed to the following persons or entities in this state and any other
4 state or country within 10 days of receiving the request for records:

5 (a)(i)(A) a department, agency, or organization, including a federal agency, military enclave, or Indian
6 tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect
7 and that otherwise meets the disclosure criteria contained in this section;

8 (b)(ii)(B) a licensed youth care facility or a licensed child-placing agency that is providing services to the
9 family or child who is the subject of a report in the records or to a person authorized by the department to
10 receive relevant information for the purpose of determining the best interests of a child with respect to an
11 adoptive placement;

12 (c)(iii)(C) a health or mental health professional who is treating the family or child who is the
13 subject of a report in the records;

14 (d)(iv)(D) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter
15 provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject
16 of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of
17 any person who reported or provided information on the alleged child abuse or neglect incident contained in the
18 records;

19 (e)(v)(E) a child named in the records who was allegedly abused or neglected or the child's legal
20 guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate
21 appointed by the court to represent a child in a pending case;

22 (f)(vi)(F) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

23 (g)(vii)(G) approved foster and adoptive parents who are or may be providing care for a child;

24 (h)(viii)(H) a person about whom a report has been made and that person's attorney, with respect
25 to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any
26 other person whose safety may be endangered;

27 (i)(ix)(I) an agency, including a probation or parole agency, that is legally responsible for the

Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB

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Drafter: Madelyn Krezowski, (406) 444-6857

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supervision of an alleged perpetrator of child abuse or neglect;

~~(j)(x)(J)~~ a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

~~(k)(xi)(K)~~ the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family engagement meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

~~(l)(xii)(L)~~ the coroner or medical examiner when determining the cause of death of a child;

~~(m)(xiii)(M)~~ a child fatality review team recognized by the department;

~~(n)(xiv)(N)~~ a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

~~(o)(xv)(O)~~ a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection ~~(3)(e) (a)(xv) (3)(O)~~ must be made in writing. Disclosure under this subsection ~~(3)(e) (a)(xv) (3)(O)~~ is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

~~(p)(xvi)(P)~~ the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

~~(q)(xvii)(Q)~~ an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

~~(r)(xviii)(R)~~ an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

~~(s)(xix)(S)~~ a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

~~(t)(xx)(T)~~ an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB

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Drafter: Madelyn Krezowski, (406) 444-6857

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- 1 ~~(u)(xxi)(U)~~ a foster care review committee established under 41-3-115 or, when applicable, a
2 citizen review board established under Title 41, chapter 3, part 10;
- 3 ~~(v)(xxii)(V)~~ a school employee participating in an interview of a child by a child protection
4 specialist, county attorney, or peace officer, as provided in 41-3-202;
- 5 ~~(w)(xxiii)(W)~~ a member of a county or regional interdisciplinary child information and school safety
6 team formed under the provisions of 52-2-211;
- 7 ~~(x)(xxiv)(X)~~ members of a local interagency staffing group provided for in 52-2-203;
- 8 ~~(y)(xxv)(Y)~~ a member of a youth placement committee formed under the provisions of 41-5-121; or
- 9 ~~(z)(xxvi)(Z)~~ a principal of a school or other employee of the school district authorized by the
10 trustees of the district to receive the information with respect to a student of the district who is a client of the
11 department.
- 12 ~~(b) — A person who purposely or negligently fails to provide records requested within the timeframe~~
13 ~~required under this subsection (3) is guilty of official misconduct and shall be punished as provided in 45-7-401.~~
- 14 (4) (a) The records described in subsection (3) must be disclosed to a member of the United
15 States congress or a member of the Montana legislature if all of the following requirements are met:
- 16 (i) the member receives a written inquiry regarding a child and whether the laws of the United
17 States or the state of Montana that protect children from abuse or neglect are being complied with or whether
18 the laws need to be changed to enhance protections for children;
- 19 (ii) the member submits a written request to the department requesting to review the records
20 relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the
21 child whose records are to be reviewed, and any other information that will assist the department in locating the
22 records.
- 23 (iii) before reviewing the records, the member:
- 24 (A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
25 for unauthorized release of the information; and
- 26 (B) receives from the department an orientation of the content and structure of the records. The
27 orientation must include a checklist of documents that are regularly included in records, including but not limited

**Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB
116**

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Drafter: Madelyn Krezowski, (406) 444-6857

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1 to the following:

2 (I) any petition filed pursuant to Title 41, chapter 3, part 4, including any supporting affidavits and
3 evidence;

4 (II) any court orders issued pursuant to Title 41, chapter 3, parts 4 and 6;

5 (III) notes from family engagement meetings and foster care review meetings; and

6 (IV) notes included in electronic case records or in case files maintained in local offices regarding
7 staffing and interactions with parents or legal guardians, providers, or attorneys.

8 (b) (i) Without disclosing the identity of a person who reported the alleged child abuse or neglect,
9 the department shall make available to the member all records concerning the child who is the subject of the
10 written inquiry.

11 (ii) Records-Except as provided in subsection (4)(b)(iii), records disclosed pursuant to this
12 subsection (4)(a) are confidential, must be made available for the member to view but may not be copied,
13 recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's
14 possession. The member must be allowed to view the records in the local office where the case is or was
15 active.

16 (iii) A member may take notes to discuss the records with a parent or legal guardian about whom a
17 report of alleged child abuse or neglect is made.

18 (c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date
19 the written request to review records was received by the department.

20 (5) (a) The records described in subsection (3) must be promptly released to any of the following
21 individuals upon a written request by the individual to the department or the department's designee:

22 (i) the attorney general;

23 (ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect
24 occurred;

25 (iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect
26 occurred; or

27 (iv) the office of the child and family ombudsman.

Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB

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(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502;

or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides

Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB

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Drafter: Madelyn Krezowski, (406) 444-6857

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1 confidential services to victims of sexual assault shall report to the department as provided in this part without
2 disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

3 (iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of
4 sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual
5 exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a
6 request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as
7 described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

8 (6) A school or school district may disclose, without consent, personally identifiable information
9 from the education records of a pupil to the department, the court, a review board, and the child's assigned
10 attorney, guardian ad litem, or special advocate.

11 (7) Information that identifies a person as a participant in or recipient of substance abuse treatment
12 services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the
13 consent provisions of the law.

14 (8) The confidentiality provisions of this section must be construed to allow a court of this state to
15 share information with other courts of this state or of another state when necessary to expedite the interstate
16 placement of children.

17 (9) A person who is authorized to receive records under this section shall maintain the
18 confidentiality of the records and may not disclose information in the records to anyone other than the persons
19 described in subsections (3)(a)(i), (4)(b)(iii), and (5). However, this subsection may not be construed to compel
20 a family member to keep the proceedings confidential.

21 (10) A news organization or its employee, including a freelance writer or reporter, is not liable for
22 reporting facts or statements made by an immediate family member under subsection (9) if the news
23 organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the
24 proceeding.

25 (11) This section is not intended to affect the confidentiality of criminal court records, records of law
26 enforcement agencies, or medical records covered by state or federal disclosure limitations.

27 (12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to

Amendment - 1st Reading/2nd House-blue - Requested by: Conference Committee on SB

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- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski, (406) 444-6857

SB0116.002.003

1 this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or
2 guardian's attorney must be provided without cost."

3
4 **Section 2.** Section 41-3-1214, MCA, is amended to read:

5 **"41-3-1214. Legislator access to ombudsman records.** (1) Records of ombudsman investigations,
6 including case notes, correspondence, and interviews, must be disclosed to a member of the legislature if:

7 (a) the legislator receives a written request from a person who has requested assistance from the
8 ombudsman about whether laws protecting children from abuse or neglect are being complied with or whether
9 the laws need to be changed to enhance protections for children;

10 (b) the legislator submits a written request to the ombudsman asking to review the records relating
11 to the written inquiry. The legislator's request must include a copy of the written inquiry, the name of the child
12 whose records are to be reviewed, and any other information that will assist the ombudsman in locating the
13 records.

14 (c) before reviewing the records, the legislator:

15 (i) signs a form that outlines the state and federal laws regarding confidentiality and the penalties
16 for unauthorized release of the information; and

17 (ii) receives from the ombudsman an orientation of the content and structure of the records.

18 (2) (a) Records-Except as provided in subsection (2)(b), records disclosed pursuant to this section
19 are confidential. Records must be made available for the member to view but may not be copied, recorded,
20 photographed, or otherwise replicated by the member, and must remain solely in the ombudsman's possession.
21 The records may be viewed at any office maintained by the office of the child and family ombudsman.

22 (b) A member may:

23 (i) take notes in order to discuss the records with the party who submitted the written inquiry to the
24 member; and

25 (ii) report to the appropriate authorities if the member suspects misconduct by a public servant as
26 defined in 45-2-101."

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68th Legislature 2023

SB0116.002.003

2 - END -

VISITORS REGISTER

MONTANA SENATE

CONFERENCE COMMITTEE SB116

April 25, 2023

[illegible]